

PULASKI COUNTY ORDINANCE NO. 2023-01-12 A
SOLAR FARMS CONSTRUCTION PERMITS
AN ORDINANCE REGULATING COMMERCIAL SOLAR FARMS

WHEREAS, Pulaski 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 Pulaski County has determined it necessary to pass an Ordinance regulating any Commercial Solar Energy Facility ("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 PULASKI COUNTY, ILLINOIS, THE FOLLOWING ORDINANCE TO REGULATE COMMERCIAL SOLAR FACILITIES ("SOLAR FARMS") BE AND HEREBY IS ADOPTED:

1. **Definitions and Incorporation of AIMA.** All terms shall have the meanings as set forth in the Standard Solar Agricultural Impact Mitigations Agreement (AIMA) entered into by the applicant, and all provisions of the AIMA must be adhered to. The Illinois Department of Agriculture shall be and is incorporated into this Ordinance. This Ordinance is intended to promote public safety and to protect Pulaski County landowners during the construction and deconstruction of commercial renewable energy facilities with the Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/1 *et seq.*).
2. **Permitting:**
 - a. No Solar Farm subject to this Ordinance shall be erected, built, or constructed without a Solar Farm Development Permit having been issued by the Pulaski County Board.
 - b. The County Board shall not approve any permit until public hearing is held by the Pulaski County Board Ordinance Committee. The purpose of such hearing will be to take public comment, subject to reasonable restrictions as determined by the County Board. Notice of the hearing shall be published by the Pulaski County Clerk's Office in a newspaper of general circulation in Pulaski County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall be published the first time not less than ten (10) days or not more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.
 - c. A Solar Farm development in the unincorporated areas of Pulaski County must be required to obtain permits and provide fees as applicable to Pulaski County.

- d. The County Board may require for a final site inspection before the facility is authorized to become operational.
 - e. An emergency contact name and phone number must be posted at the point of access on all solar developments.
 - f. The permit holder will allow the County, or its authorized Agent, access to the property within thirty (30) days of an inspection request by the County. In the event of an emergency, the County or its Authorized Agent has the right to access the premises.
 - g. The County will schedule yearly inspections with the developer. The County Board or its Authorized Agent will perform the inspection at no cost to the developer.
 - h. The provisions of the Ordinance shall be administered and enforced by personnel of the Pulaski County Board Ordinance Committee or their authorized agents.
3. **Design Standards:** Application(s) for Solar Farm Development Permits shall be accompanied by:
- a. Plans for the Solar Farm in duplicate drawn to scale.
 - b. This Ordinance shall apply only to solar farms erected for commercial generation purposes and shall not apply to any personal use of solar power.
 - c. **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, the Future Energy Jobs Act (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 the Future Energy Jobs Act (Illinois Public Act 099-0906).
 - d. **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. Joint Utility Locating Information for Excavators (“JULIE, Inc.”) shall be contacted before digging/excavating begins (Call 811 or 800-892-0123 or go online at illiois1call.com to place a locate request).

- e. **Minimum Lot Size.** No commercial solar farm shall be erected on any lot less than five (5) acres in size.
- f. **Height.** Systems, equipment, and structures shall not exceed thirty (30) feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines and utility poles.
- g. **Setbacks.** Ground mounted solar energy systems as part of a solar farm must have a setback for all equipment, excluding fences, of a minimum of one hundred (100) feet on the front (entrance to solar energy farm) and fifty (50) feet from all other property lines, with the exception of residential property lines, in which the solar energy system must be setback one hundred fifty (150) 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 Pulaski County Board may grant a variance to such setback requirements if the proposed or existing buffer is sufficient to screen the project from view from adjoining property or public rights-of-way or 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.
- h. **Screening and Fencing.** The solar energy system shall be fully enclosed and secured by a fence with a minimum height of six (6) feet. Keys shall be provided at locked entrances for access by appropriate emergency personnel. The applicant shall propose a landscaping plan to minimize the visibility of the project from adjacent residential structures if requested by the owners of appurtenant residences. The landscape plan shall consider 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.
- i. **Lighting.** If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto an adjacent residential parcel.

- j. **Performance Standards.** All solar farms must conform to the performance standards as set forth by any local, state, federal regulatory standards, the Future Energy Jobs Act (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 9-1-1 address and two 24-hour emergency contact numbers that are a minimum of four (4) Inches in height.
 - 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. 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 in compliance with this section.
 - m. **Fire Protection.** A fire protection plan for the construction and the operation of the facility and emergency access to the site.
 - n. **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.
4. **Application Requirements:** Due to the unique nature and special requirements of solar farms and their potential impact to adjoining properties and government services, solar farms must be required to submit and obtain approval on the following items or any special conditions required by the Pulaski County Board. The applicant must be required to submit two copies of documents proving ownership or interest in the property. The applicant must also proffer documentation demonstrating the following:
- a. A site plan with existing conditions showing the following:
 - i. Existing property lines and property lines extending six hundred (600) 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 easement.
 - 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 of the property showing topography at two-foot intervals and a contour map of the adjacent five hundred feet of surrounding properties if requested by the Ordinance Committee.
 - 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 Pulaski County Soil Survey.
 - xii. Surface water drainage patterns.
 - xiii. The location of any known subsurface drainage tiles.
- b. Plan of proposed construction:
- i. Proposed location and spacing of solar panels.
 - ii. Proposed 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 depicting proposed solar energy conversion system and its relationship to structure on adjacent land.
 - vi. Weed/grass control. Proposed location weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the solar farm shall maintain the fence and adhere to the weed/grass control plan. If the operating company fails to comply with the proposed weed/grass control plan or fails to secure any fences, a fine of \$750.00 per violation per week may be assessed.
- c. All solar farm 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 farm.
- d. Manufacturer's specification and recommended installation methods for all major equipment, including typical solar panels, mounting systems, and foundations for poles or racks.
- e. A description of the method of connecting the array to a building or substation.
- f. Decommissioning Plan.
- i. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels shall occur if they are not in use for twelve (12) consecutive months. The operating company shall have one year to complete the decommissioning plan, or the County will take the necessary decommissioning steps. The plan shall include:
 - 1. provisions for removal of all structures (including equipment, fencing, and roads) and foundations;

2. restoration of soil and vegetation; and
3. 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 regulations of the Illinois Department of Agriculture, Illinois Environmental Protection Agency, and/or the United States Environmental Protection Agency.

- ii. The decommissioning security amount shall be developed by a third-party Illinois-Licensed Professional Engineer who will be mutually agreed upon by the applicant and the Committee and shall be required by the County to ensure 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. The decommissioning security amounts are as follows:

1. Year 1 – \$250.00 per used acre
2. Year 2 – \$400.00 per used acre
3. Year 3 – \$550.00 per used acre
4. Year 4 – \$700.00 per used acre
5. Year 5-10 – \$1,000.00 per used acre

At Year 11, the decommissioning cost and financial assurance shall be reevaluated and be mutually agreed upon by the applicant and the Pulaski County Board.

- iii. This security financing shall be in the form of an irrevocable letter of credit or a bond payable to Pulaski County and held by the Pulaski County Treasurer.
- iv. The decommissioning plan and financial security shall be presented to by the Pulaski County Board for approval prior to the start of construction for the facility.
- v. The applicant/owner and a member of the Pulaski County Ordinance Committee shall reevaluate 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 Pulaski County Board. All cost associated with third-party

Illinois-Licensed Professional Engineer shall be paid by the owner/operator of the solar farm.

- vi. The County reserves the right to obtain a third-party opinion and the applicant shall pay the reasonable fee for the third-party opinion concerning the decommissioning plan, decommissioning security amount, and/or reevaluation of the decommissioning security amount.
- vii. 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 twelve (12) 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 effectuate or complete decommissioning.
- viii. The County is granted the right to seek injunctive relief to effectuate or complete decommissioning. The County shall have the right to seek reimbursement from applicant or applicant successor for decommissioning costs more than the amount deposited in escrow and/or to file a lien against any real estate owned by applicant or applicant's successor or any property in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- ix. Financial provisions shall not be so onerous as to make solar power projects unfeasible.
- x. Decommissioning plans must be signed by the party responsible for decommissioning and the landowner (if different) and must be submitted with the application.
- xi. In the event the State of Illinois enacts a law regarding solar farms, such as AIMA legislation, the strictest requirements shall prevail.
- xii. 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.

g. Liability Insurance and Indemnification:

- i. The applicant, owner, or operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name landowner and Pulaski County as an additional insured with limits of at least two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than ten thousand dollars (\$10,000.00). The applicant/owner must provide proof of insurance to the Pulaski County Board prior to construction and then on an annual basis. The applicant must also provide proof of insurance upon any material changes to the terms and conditions of the policy.
- ii. Any applicant, owner, or operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of applicant, owner, or operator's selection, construction, operation, and removal of the solar energy system and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying any of the County's other indemnification rights available under the law.

5. Fees and costs.

- a. No solar farm application shall be accepted until the one-time filing fee of five-thousand dollars (\$5,000.00) is paid and accompanied by an application executed by a State of Illinois Licensed Professional Engineer and 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 five-thousand dollars (\$5,000.00) in preparing for, processing, reviewing, and evaluating the application to its final resolution.

- b. Any solar energy system on construction has started before a building permit has been applied and paid for will be charged double the permit fee and shall not be allowed to continue construction until a permit is obtained. The above fees do not apply to solar energy systems used to generate energy for on-site consumption of energy for agricultural purposes, manufacturing purposes or residential purposes.

6. **Expiration.** A Permit issued pursuant to this ordinance expires if:

- a. The solar energy facility is not installed and functioning within four (4) years from the date the permit is issued; or
- b. The solar energy facility is out of service or otherwise unused for a continuous 12-month period. The County Board may grant extensions to the 4-year deadline based on hardship conditions.

7. **Administration and Enforcement.**

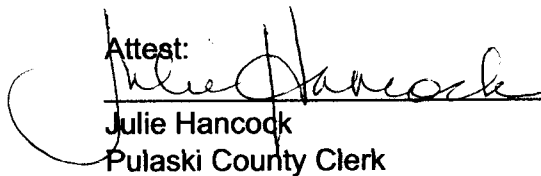
- a. The Pulaski County Board Ordinance Committee (hereinafter "Committee") shall enforce the provisions of this ordinance through inspections of the solar farm. The Pulaski County Board Ordinance Committee is hereby granted the power and authority to enter upon the premises of the solar farm at any time by coordinating a reasonable time with the operator/owner of the facility. Any person, firm, or corporation 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. Any challenge to any fine must be challenged first to the Pulaski County Board before initiation of any suit through the appropriate court system.
- b. The applicant shall submit its application to the Committee. The Committee 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 Committee shall instruct the applicant as to why the application is insufficient and allow the applicant the opportunity to re-submit a complete application. Within thirty (30) days of the application being deemed complete, the Committee shall, after publishing a notice of public hearing with respect to the application, conduct a public hearing on the application within the thirty (30) days, review the application, and within thirty (30) days after the public hearing, make a recommendation to the Pulaski County Board regarding approval of the application. The Pulaski County Board will have thirty (30) days to act on such application. The applicant shall have thirty (30) days to appeal any decision by the Pulaski County Board for reconsideration by the Board or to a court of competent jurisdiction.

8. **Sale or Transfer of Solar Farm/Project.** If a solar farm and/or project is sold, transferred, and/or assigned to another owner or operator, the new owner or operator must request a transfer of the permit from the Pulaski County Board. The new owner or operator must abide by all requirements in the previous contract. A fee of \$5,000 is required if the solar farm and/or project is sold, transferred, and/or assigned to another owner or operator.
9. **Payment of Public Hearing Notice.** The applicant will be responsible to place and pay for the public hearing notice once the Committee has approved the notice.
10. **Duration of Project Approval.** Any approval of a solar project will be valid throughout the useful life of the project, including through decommissioning.
11. **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 this information can be disclosed publicly), shall be submitted annually within thirty (30) days of the anniversary date of the permit until decommissioning has been completed, at which point the permit shall expire.
12. **Effective Date.** This Ordinance shall be in full force and effect from and after its passage. The County reserves the right to amend this Ordinance at any time, but the provisions of any amendments shall apply only to new applications accepted as properly filed after the date of Amendment.

PASSED by the Pulaski County Board on this 12th day of January, 2023.

PRESENT: 3
 AYES: 3
 NAYS: 0
 ABSTAIN: 0


 Robert Helman, Chairman
 Pulaski County Board

Attest:

 Julie Hancock
 Pulaski County Clerk