

ARTICLE XX

THE COUNTY BOARD OF MERCER COUNTY, ILLINOIS RESOLUTION AMENDING THE MERCER COUNTY ZONING ORDINANCE SOLAR ENERGY FACILITIES

20.1 TITLE.

This ordinance shall be known as the Solar Energy Ordinance.

20.2 AUTHORITY.

This ordinance is adopted pursuant to authority granted by ILCS Chapter 55 Counties Division 5-12 Zoning and Section 5/5-1063 Building Construction, Alteration, Maintenance.

20.3 PURPOSE.

The purpose of this ordinance is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a solar energy facility and to allow for the orderly development of land, protect property values and esthetic conditions within the county. This ordinance does not repeal, abrogate, annul, impair, or interfere with any existing ordinance.

20.4 APPLICABILITY.

This ordinance applies to all unincorporated lands within the boundaries of Mercer County.

20.5 DEFINITIONS.

In this ordinance:

- (1) "Abandonment" means to give up, discontinue, withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.
- (2) "Board" means the Zoning Board of Appeals.
- (3) "Building" means any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

- (4) "Code Administrator" means the Zoning Officer/Building Administrator
- (5) "Committee" means the County Zoning Committee.
- (6) "County Board" means Mercer County Board.
- (7) "County Engineer" means Mercer County Engineer.
- (8) "Decommissioning plan" means a document that details the planned shut down or removal of a solar energy facility from operation or usage.
- (9) "Department" means the Zoning/Building Department.
- (10) "Fence" means a continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength.
- (11) "Gate" means a door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.
- (12) "Improved Area" means the area containing solar panels, electrical inverters, storage buildings and access roads.
"Public Road" means any road or highway which is now or hereafter designated and maintained by the Illinois Department of Transportation, Mercer County, or any Township or Municipality in Mercer County.
- (13) "Residence" means a building used as a dwelling for one or more families or persons.
- (14) "Residential Area" means any area within one quarter 1/4th mile of a solar energy facility having twenty-five or more dwellings.
- (15) "Solar Energy Facility" means an energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems. This definition shall only include those facilities that sell electricity to be used off site.
- (16) "Zoning Ordinance" means Mercer County Zoning Ordinance as amended.

20.6 STANDARDS.

20.6.01 Location

A solar energy facility may only be located in areas that are zoned AG-1 Agriculture or I-1 Industrial with special use and building permits.

20.6.02 Set Backs.

- (a) Set backs will be in accordance with Section 6.6: BULK REQUIREMENTS of the zoning ordinance.
- (b) Improved areas shall be at least 100 feet from any residence or church, measured from the principle building in a non-residential area. Improved areas shall be 50 feet from a residence or church, measured from the property line in a residential area.

20.6.03 Security

- (a) Solar energy facilities shall be fenced completely as defined in Section 20.5(10) above. The perimeter fence shall be designed to restrict unauthorized access.
- (b) An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.

20.6.07 Equipment

- (a) On site power lines between solar panels and inverters shall be placed underground.
- (b) The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
- (c) If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- (d) The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

20.7 PERMIT REQUIREMENTS

20.7.01 Conditional Use Permit.

A conditional use permit approved by the County Board is required for each solar energy facility. See Mercer County Zoning Ordinance Sec 15.7 Conditional Uses.

20.7.02 Building Permit.

A building permit is required for the installation of each solar energy facility.

20.7.03 Expiration.

A conditional use permit issued pursuant to this ordinance expires if:

- (a) The solar energy facility is not installed and functioning within 1 year 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. Board may grant extensions to the 1 year and 12 month deadlines based on hardship conditions.

20.7.04 Fees.

- (a) The application for a conditional use permit must be accompanied by the fee required for each solar energy facility.
- (b) The application for a building permit must be accompanied by the fee required for each solar energy facility.
- (c) All fee amounts to be found under Section 18.1 - FEES, of the Mercer County Zoning Ordinance as amended.

20.7.05 Financial Assurance.

(a) Reasonable evidence of financial ability to construct the solar energy facility as determined by the County Board is a condition precedent to the issuance of any conditional use or building permit under this ordinance.

(b) Mercer County and/or the property owner leasing land for a solar energy facility may require a performance bond, surety bond, escrow account, letter of credit or other financial assurance to Mercer County and/or property owner for each solar energy facility that guarantees the performance of the restoration requirement set forth in Section 20.8.

20.8 RESTORATION REQUIREMENT.

20.8.01 Abandonment.

A solar energy facility that is out of service for a continuous 12-month period will be deemed to have been abandoned. The Code Administrator may issue a Notice of Abandonment to the owner of a solar energy facility that is deemed to have been abandoned. The Code Administrator will withdraw the Notice of Abandonment if the Board approves an extension based on hardship conditions.

20.8.02 Termination.

The owner of a solar energy facility shall provide the Code Administrator with a Written Notice of Termination of Operations if the operation of a solar energy facility is terminated.

20.8.03 Physical Removal.

Within 8 months of receipt of Notice of Abandonment or within 8 months of providing Notice of Termination of Operations, the owner of a solar energy facility must:

- (a) Remove all solar panels, above ground improvements, and outdoor storage;
- (b) Remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and
- (c) Remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.

20.8.04 Failure to Comply.

Failure to comply with any of the conditions or restrictions imposed on a conditional use permit shall be deemed a violation of the Zoning Ordinance.

20.8.05 Appeals.

All Code Administrator determinations may be appealed to the Board.

20.9 CONDITIONAL USE PERMITS PROCEDURE.

20.9.01 Application

Conditional use permit applications shall be submitted to the Code Administrator. The application must be on a form approved by the Code Administrator and must be accompanied by 10 copies of a scaled drawing, other descriptive information sufficient to enable the Committee and Board to determine whether the requirements of this ordinance will be satisfied, and such other information as may be specified on the application form. The Code Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Code Administrator determines that the application is complete, the Code Administrator will forward it to the Committee and Board. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided.

20.9.02 Hearing

The Committee and Board will conduct a hearing on the application within 60 days after application submittal and minimum 15-day public notice. The public meeting and hearing both Committee and Board will submit recommendations and finding of facts to the County Board.

20.9.03 Conditional Use Permits

The County Board may grant a conditional use permit if it determines that the requirements of this ordinance are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the county. Both the Board and County Board may include conditions in the permit as provided if those conditions preserve or protect the public health, safety and property values. Both the Board and County Board may consider the following factors when setting conditions:

- (a) Proposed ingress and egress.
- (b) Proximity to transmission lines to link the system to the electric power grid.
- (c) Number of solar panels and their location.
- (d) Nature of land use on adjacent and nearby properties.
- (e) Location of other energy systems in the surrounding area.
- (f) Surrounding topography.
- (g) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
- (h) Design characteristics that may reduce or eliminate visual obtrusiveness.
- (i) Possible adverse effects on animals and wildlife.
- (j) Possible adverse effects of stray voltage, interference with broadcast signals, and noise.
- (k) Impact on the orderly development, property values, and esthetic conditions within the county.
- (l) Recommendations of any aggrieved parties that may be affected by the solar energy facility.

(m) Any other factors relevant to proposed system.

20.9.04 Variances

The Board may consider variances to one or more of the factors. See Mercer County Zoning Ordinance Sec 15.6 Variances.

20.9.05 Final Determination

The Committee and Board recommendations, finding of facts and any conditions will be recorded in the minutes and forwarded to the County Board for final determination.

20.9.06 Appeals

The County Board's decision to approve or reject the conditional use permit application may be appealed to the Circuit Court.

20.10 BUILDING PERMIT PROCEDURE.

20.10.01 Application

Building permit applications shall be submitted to the Code Administrator. The Application must be on a form approved by the Code Administrator and must be accompanied by two copies of a drawing that shows the proposed location and distance of the solar energy facility with reference to the property lines of the parcel on which it is located; any residence, business, or public building on an adjacent parcel; the right-of-way of any public road that is within 500 feet; and such other information as may be specified on the application form. Construction plans prepared and sealed by a structural engineer licensed to practice in Illinois, will be required for each solar energy facility. Special inspections by approved inspection agencies will be required

20.10.02 Time Frame

The Code Administrator should issue a permit or deny the application within one month of the date on which the application is received.

20.10.03 Meets Requirements

The Code Administrator will issue a building permit for a solar energy facility if the application materials show that the proposed location meets the requirements of this ordinance, building code and the conditional use permit issued by the County Board.

20.10.04 Copies

If the application is approved, the Code Administrator will return one copy of the drawing with the building permit and retain the other copy with the application.

20.10.05 Rejection

If the application is rejected, the Code Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected.

20.10.06 Posting

The building permit must be conspicuously posted on the premises so as to be visible to the public at all times until construction or installation of the tower is complete.

20.10.07 Appeals

All Code Administrator determinations may be appealed to the Board.

20.11 SIGNAL INTERFERENCE.

The owner of a solar energy facility must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with cellular, radio or television signals caused by the solar energy facility.

20.12 VIOLATIONS.

It is unlawful for any person to construct, install, maintain, modify, or operate a solar energy system that is not in compliance with this ordinance or with any condition contained in a conditional use or building permit issued pursuant to this ordinance. See applicable Zoning Ordinance, and ILCS sections.

20.13 ADMINISTRATION AND ENFORCEMENT.

20.13.01 Administration

This ordinance shall be administered by the Code Administrator.

20.13.02 Entering property

The Code Administrator may enter any property for which a conditional use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance and code.

20.14 PENALTIES.

20.14.01 Zoning petty offense.

Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense. Building - petty offense. Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense.

20.14.02 Enforcement

Nothing in this section shall be construed to prevent the county from using any other lawful means to enforce this ordinance.

20.15 COUNTY HIGHWAY AND TOWNSHIP ROAD AGREEMENTS.

Each solar energy facility shall have a written agreement with County Engineer and respective Township Highway Commissioner(s) regarding use of county/township road, bridges and right-of-way. Performance/surety bonds or other financial assurance documents may be required to guarantee the performance of the road agreements before a building permit can be issued.

20.16 SOLAR ENERGY FACILITY OWNER/COUNTY/PROPERTY OWNER RESTORATION AGREEMENT.

Each solar energy facility shall have a written agreement with Mercer County and/or property owner regarding restoration requirements as discussed in this ordinance. Performance/surety bonds or other financial assurance documents may be required to guarantee restoration (decommissioning) before a building permit can be issued.

20.17 RELATED RULES AND REGULATIONS.

Each solar energy system shall comply with all applicable local, state and federal requirements.

20.18 SEVERABILITY.

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

20.19 DECOMMISSIONING PLAN

20.19.01 Elements

Prior to the issuance of construction permits, Owner or Operator shall prepare A Decommissioning Plan with the following elements:

- A. Provisions describing the triggering events for decommissioning of the solar energy facility;

B. Provisions for the removal of above-ground structures, debris, and cabling, and provisions for the removal of underground foundations and cables down to a depth of 4 feet below the soil surface;

C. Provisions for the restoration of the soil and vegetation;

D. An estimate of the decommissioning costs and salvage value, certified by a Professional Engineer or other qualified professional reasonably acceptable to the County, which shall be updated and submitted to the Mercer County Zoning Enforcing Officer every five years;

E. Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the positive decommissioning cost and salvage value;

F. Identification of and procedures for County access to Financial Assurances;

G. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and

H. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

20.19.02 Review

The Zoning Board shall approve the Plan after review that the decommission plan meets industry standards once as part of the application process.

20.19.03 Remedies

If the owner-or-operator fails at any point to comply with the approved plan the County has the following remedies:

A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute grounds for a revocation of the construction permit or default under this Ordinance. Approval of the conditional use for a solar energy facility shall be deemed conclusive evidence that the Applicant, Owner, or Operator has complied with the above provisions with respect to application for and approval of such special use or.

B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s) or,

C. If after the 60 (sixty) day period: (i) the Applicant, Owner, or Operator has not cured the alleged default, or (ii) the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing Mercer County Solar Energy Facilities Ordinance provisions at Sec 20.14 addressing the resolution of such default(s) shall govern.