

CHAPTER 17 - SOLAR ENERGY DEVELOPMENT

Article I – IN GENERAL

Sec. 17-11. Purpose

The purpose of this Solar Energy Development Ordinance is to protect public health and safety through establishing reasonable standards for the construction, installation, operation and decommissioning of commercial solar energy systems in the county. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable sections of this Code. This ordinance shall not be deemed to supersede any other provisions of local, state, or federal law.

Secs. 17-12--17-20. - Reserved.

Article II – Solar Energy Development

Sec. 17-21 - Definitions.

The following words, terms and phrases, when used in this chapter/article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Solar Energy System means the components and subsystems required to convert solar energy into electric or thermal energy, or to store such energy, including all equipment and accessory buildings.

Solar Panel means a photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Project means a utility-scale, commercial Solar Energy System, the full size of which occupies five (5) acres or more of land.

Sec. 17-22 - Jurisdiction and Applicability.

This Solar Energy Development Ordinance shall apply where any portion of a Solar Project is, or is proposed to be, sited in any unincorporated area of the county.

Sec. 17-23 – Standards for Solar Farms.

(a) The following minimum setback distances shall be required for all Solar Energy System components of a Solar Project (exclusive of fencing and vegetative screening):

- (1) Three hundred (300) feet from all dwelling units, except where the owner of a dwelling unit agrees to lessen such distance by executing a signed written waiver of this requirement;
- (2) One hundred (100) feet from all public right-of-way frontages; and

(3) Three hundred (300) feet from all property boundaries other than right-of-way frontages, except for:

- a. Property boundaries of adjacent tax parcels that are outside of 500 feet from a residential subdivision or part of a single Solar Project or a series of commonly owned Solar Projects must meet a one hundred (100) foot setback from all property boundaries other than right-of-way frontages; or
- b. Property boundaries where the owner(s) of the applicable adjacent tax parcel(s) agree to lessen such distance by executing a signed written waiver of this requirement.

(b) Power inverters and other sound-producing equipment shall be sited no less than 300 feet from any dwelling unit in place at the time of construction or installation.

(c) All solar energy systems shall be completely enclosed with a minimum of six (6) feet high chain link or security fencing, as measured from the finished grade of the fencing perimeter.

(d) Where existing visual buffers do not already exist, and at the discretion of the county, Solar Projects shall be constructed with evergreen vegetative screening so as to help obscure Solar Energy System perimeters from dwelling units located within 300 feet of the Solar Energy System on adjacent parcels. At maturity, the vegetative screening shall be not less than fifteen (15) feet tall regardless of line-of-sight.

(e) Solar Energy System height, which shall be measured from the highest finished grade below each solar panel to the top of that panel, shall not exceed fifteen (15) feet.

d) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the ground mounted solar photovoltaic installation and consistent with best practices for the preservation of natural areas or good husbandry of the land or forest.

(e) The height of any vegetation within ten feet of any solar panels or equipment shall not exceed 18 inches and shall be no less than two inches in height over the soil surface. Any disturbed land shall be stabilized by a permanent seeding of perennial vegetation such as grass or other dense surface cover that will protect the soil surface from erosion, prevent sediment and runoff at the site from reaching downstream areas, and enhance the aesthetics of the site. It is recommended that a slow-growing, vegetative cover be utilized so that general maintenance of the growth can be kept to a minimum.

(f) The names of the manufacturers, installers, facility owners, and facility operators, and their addresses and phone numbers shall be posted on the required fencing at each entrance of a solar farm.

(g) All electrical interconnection and distribution lines within a solar farm's boundaries, shall be underground, except for pre-existing transmission lines or lines connecting the project substation to existing power lines, or unless the county code enforcement department grants a written exception due to severe environmental constraints.

(h) Lighting of a solar farm and its accessory structures shall be limited to the minimum reasonably necessary for its safe operation and shall be reasonably shielded from abutting properties. Where feasible, lighting of a solar farm shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

(i) All solar farms shall comply with any other applicable requirements of the county code of ordinances including, but not limited to setback and height requirements.

(j) All solar farms shall have a secure entry system at the primary entrance. The secure entry system shall comply with the specifications of the International Fire Code.

(k) All solar farms shall have a written emergency response plan that shall be approved by the county's code enforcement department, sheriff's office, fire department, and emergency management agency prior to start of operations. Each solar farm shall update its emergency response plan no later than January 1 of each year with a copy provided to all departments and agencies named in this subsection. The emergency response plan shall include the following:

- (1) The phone number, email address, and street address for all manufacturers, installers, owners, and operators; and
- (2) The phone number, email address, and mailing address for a representative of the solar farm responsible for responding to public inquiries; and
- (3) The material safety data sheets that apply to any materials on the solar farm; and
- (4) The clearly marked means and instructions for shutting down the solar photovoltaic installation.

(l) Any solar farm that has not been in use for a period of 180 consecutive days for its original purpose as approved by the county code enforcement department shall be deemed abandoned and shall not be authorized to recommence operations until Code Enforcement inspects the facility.

Sec. 17-24 - Permitting Requirements.

(a) All proposals for new construction of, substantial enlargement of, and/or major alteration of Solar Projects shall require a development permit issued by the county (a "Solar Development Permit"), which the county shall grant by right subject to site plan review and decommissioning plan review.

(b) A Solar Project Permit applicant shall submit a site plan to the county for review and approval. The site plan shall include a map or maps prepared at a scale of not less than one (1) inch to [50] feet and shall include:

- (1) Name and address of the applicant or its authorized agent;
- (2) Boundaries, exact dimensions and acreage of the tax parcel(s) to be built upon;
- (3) Identification of the owners of all adjacent tax parcels;
- (4) Location and dimensions of the Solar Energy System;
- (5) A demonstration of compliance with all setback, screening and height requirements specified in Section 17-23 above;
- (6) Existing and proposed locations and dimensions of any utility lines, easements, drainage ways and public or private rights-of-way;
- (7) Buildings and the locations of all structures, existing and proposed

Prior to issuance of building permit, drainage plans must meet Soil Erosion, Sedimentation and Pollution Control ordinance;

(c) A Solar Project Permit applicant shall submit a decommissioning plan to the county for review and approval. The decommissioning plan shall include, at a minimum:

- (1) Defined conditions upon which decommissioning will be initiated (e.g. end of lease, condition of a potential public safety hazard, etc.);
- (2) Removal of all non-utility owned equipment, conduits, structures, fencing, roads and foundations (and/or a written waiver signed by the property owner releasing the Solar Project developer from this requirement or a portion thereof);
- (3) Restoration of the property to a condition prior to development of the Solar Project (and/or a written waiver signed by the property owner releasing the Solar Project developer from this requirement or a portion thereof);
- (4) The timeframe and costs for completion of decommissioning activities; and
- (5) A signed statement from the party responsible for completing the decommissioning activities acknowledging such responsibility.

(d) Within fifteen (15) business days of receiving the site plan and decommissioning plan, the county shall approve, approve with conditions (limited to those conditions necessary to ensure compliance with the setback, screening, and height requirements specified in this Solar Energy Development Ordinance), or disapprove the application due to failure to comply with the application requirements specified above. The county shall notify the applicant in writing either that the application has been approved, approved with conditions, or disapproved, with the specific reasons for conditional or disapproval.

Sec. 17-25 - Decommissioning.

(a) No later than the end of the fifth (5th) full year of the Solar Project's operation, and every five (5) years thereafter that the Solar Project remains in operation, the Solar Project Permit holder shall:

- (1) Reevaluate decommissioning costs for the Solar Project; and
- (2) Provide to the county security sufficient for such decommissioning costs in the form of a new or modified guaranty to ensure the availability of funds for such costs. The guaranty shall be from an entity having (1) at the time of delivery of such guaranty, a senior unsecured long-term debt rating of BBB- or better from Standard and Poor's and Baa3 or better from Moody's; or (2) audited financial statements, prepared by a nationally-recognized firm of independent auditors and indicating a financial net worth of at least \$10,000,000.

(b) The county may waive the security requirement described in paragraph (a)(2) upon receipt of evidence that the Security Project Permit holder has provided satisfactory security to cover the decommissioning costs to the property owner.

(c) Upon failure to accomplish the provisions in the decommissioning plan, the land owner must file a claim on the bond and decommission the project.

Sec. 17-26 - Severability.

Should any section or provision of this Solar Energy Development Ordinance be determined by a court of competent jurisdiction to be unconstitutional or invalid, such determination or decision shall not affect the validity of the Solar Energy Development Ordinance as a whole, or a part thereof, other than the part so declared to be unconstitutional or invalid.