

Recorder:

Deputy:

Beverly Howard

STATE IMPOSED RHSP:

25-07

**CUMBERLAND COUNTY SOLAR ENERGY SYSTEM (SES) ORDINANCE
TO AMEND ORDINANCE 25-01, DOC #2025R00195**

Scope

This article applies to all commercial solar energy facilities in unincorporated Cumberland County that convert sunlight into electricity for the primary purpose of wholesale sales of generated electricity. This ordinance shall not be deemed to nullify any provisions of local, state, or federal law.

Purpose

1. To assure the protection of health, safety, welfare, and property values for all Cumberland County residents and landowners.
2. To avoid adverse impact on important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands.
3. To assure that any development and product of solar-generated electricity in Cumberland County is safe and effective.
4. To promote the supply of solar energy in support of the State of Illinois statutory goal of increasing energy production from renewable energy sources.
5. To facilitate economic opportunities for local residents.

Other Standards

Ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or for export to the wholesale market, are permitted under the following standards:

- A. Stormwater and NPDES (National Pollutant Discharge Elimination System): Solar farms are subject to NPDES permit requirements. The SES (Solar Energy System) must comply with CCPHD Cumberland County Public Health Department) requirements for well and septic systems in the event of stormwater runoff.
- B. Ground Cover and Buffer Areas: Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in 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 CCSWCD (Cumberland County Soil & 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 shall be consistent with the goals of the Pollinator-Friendly Solar Site Act.

- C. "Vegetative Screening: A vegetative screen shall be provided between the Solar Energy System and any non-participating residence within 250 feet of the Solar Energy System except where existing landscaping, natural elevations, or other improvements on the participating parcel already provide screening or substantially limit visibility. 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 and/or native trees and/or any existing wooded area. Any planted vegetation shall be no shorter than 3 feet at planting. With respect to non-participating adjacent landowners who are eligible to receive screening, the applicant and any non-participating landowner may agree to waive or modify vegetative screening requirements respecting their affected property. Such waiver or modifications shall be agreed upon in writing by the non-participating landowner and the developer of the Solar Energy System prior to operation and/or modification of the screening.
- D. Fencing: Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall use wildlife friendly fencing standards that include clearance at the bottom and is consistent with Public Act 102-1123. Alternative fencing can be used if the site is incorporating agrivoltaics.
- E. The developer of the Solar Energy System is encouraged to use American labor and materials where reasonably possible.
- F. "Where reasonably possible, the developer of the Solar Energy System shall use panel components that are recyclable."
- G. Other Standards and Codes: All solar farms shall be in compliance with all applicable local, state, and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended and that National Electric Code, as amended.
- H. Power and Communication Lines: Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Cumberland County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Cumberland County Board.
- I. Site Plan Required along with the application fee. The fee is \$10,000.00 plus \$5,000.00 per Mega watt. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands, and other protected natural resources, topography, electric equipment, and all other characteristics requested by Cumberland County.
- J. Liability Insurance required with limits of \$5,000,000.00 per occurrence. The county and its officers, appointed and elected officials, employees, attorneys, engineers and agents (the "County Affiliates") and all affected Road Districts and their officers, appointed and elected officials, employees, attorneys, engineers and agents (the "Road District Affiliates") shall be included as additional insured on the insurance certificate(s), endorsement(s) and policies for all aspects of the project. The applicant shall file the original certificate of insurance with the County Board when filing the site plan.

- K. Setbacks shall comply with all applicable local, state, and federal statutes.
- L. Height of the panels shall comply with all applicable local, state, and federal statutes.
- M. Natural Resource Inventory Information Report: Solar farm developers shall be required to initiate a natural resource review inventory report by contacting the CCSWCD, this report will include soil and wetland information, water quality information, cultural resources, and endangered species. The CCSWCD has 30 days to release this information. The cost of the Natural Resource Inventory Report consultation will be borne by the developer.
- N. Endangered Species and Wetlands: Solar farms developers shall be required to initiate a natural resource review consultation with the 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 will be borne by the developer.
- O. No construction may intrude on any easement or right of way for a gas pipeline or hazardous liquid pipeline, an underground water main or sanitary sewer, a drainage district ditch or tile, or any other public utility facility unless specifically authorized by a crossing agreement that has been entered into with the relevant party.
- P. Farmland Damage Mitigation:
 - A. All underground wiring or cabling for the SES shall be a minimum depth of five feet below grade or deeper if required to maintain a minimum one-foot clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so, authorized by the AIMA.
 - B. The applicant shall locate all existing agricultural drainage tile prior to establishing any construction staging areas, construction of any necessary SES access lanes or driveways, construction of any SES structures, any common switching stations, substations, and installations of underground wiring or cabling. The applicant shall contact affected landowners and tenants and the CCSWCD and any relevant drainage district for their knowledge of tile line locations prior to the proposed construction. Drainage districts and all affected landowners shall be notified at least six weeks prior to disruption of tile.
 - C. The location of drainage tile lines and any existing drainage tile easement shall be staked or flagged prior to construction to alert construction crew of the presence of drainage tile and the related easement. Any drainage tile for which there is no existing easement shall be protected from disturbance by a 30 feet wide no-construction buffer on either side of the drainage tile. This buffer shall be marked prior to the start of construction and shall remain valid for the lifetime of the SES project and during any deconstruction activities that may occur unless specific construction is authorized in writing by all commissioners of the relevant drainage. A copy of the written authorization shall be provided to the County prior to the commencement of construction.
 - D. Any agricultural drainage tile located underneath construction areas, access lanes, driveways, any common switching stations, and substations shall be repaired, replaced, or rerouted per agreement with the affected landowner or tenant. Tile lines must be marked in such manner that they will remain visible until the permanent repairs are completed.
 - E. All exposed tile lines shall be screened or otherwise protected to prevent the entry into the tile of foreign materials, loose soil, small mammals, etc.

- F. Permanent tile repairs shall be made within 14 days of the tile damage provided that weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. All temporary and permanent tile repairs shall not be waived or modified except as authorized by the affected landowner or tenant. All damaged tile shall be repaired by a local tile contractor so as to operate as well after construction as before construction began.
- G. All soil conservation practices, such as terraces, grassed waterways, etc., that are damaged during SES construction and/or decommissioning shall be restored by the applicant to pre-construction condition in a manner consistent with the AIMA (Agricultural Impact Mitigation Agreement).
- Q. Noise Evaluation Report: Noise levels from any Solar Farm shall be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 Illinois Administrative Code Subtitle H: Noise Parts 900, 901, 910).

Coordination with the Local Fire Department and Cumberland County EMA

The Owner, or Operator shall submit to the local fire department and CCEMA a copy of the site plan.

Upon request by the local fire departments and CCEMA, the Owner or Operator shall cooperate with those agencies to develop a county-wide emergency response plan. In addition, at no cost to the local fire departments or CCEMA, the Owner or Operator shall provide to CCEMA any specialized and necessary rescue and firefighting equipment that was identified as necessary by the local fire department and CCEMA to be used in the event of an emergency at the project sites by the local fire departments and CCEMA. In addition, the Owner or Operator shall have the responsibility to update - at no cost to the local fire departments or CCEMA - any such equipment in possession of CCEMA.

Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

Material Handling, Storage and Disposal

All solid wastes related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

All hazardous materials related to the construction, operation and maintenance of the SES shall be handled, stored, transported and disposed of in accordance with all applicable federal, state and local laws.

Decommissioning

- A. Financial assurance shall be secured by the SES Owner or Operator for the purpose of adequately performing decommission in an amount equal to 100% of the Professional Engineer's certified estimate of the decommissioning, not including salvage value. The Cumberland County Board shall require the posting of a bond, letter of credit or the establishment of an escrow account to ensure the proper decommissioning. This shall be required prior to the approval of the application for the facility. The Professional Engineer shall be selected by and paid for by the SES Owner. A Professional Engineer shall assess and certify the estimate for decommissioning every 5 years.
- B. A decommissioning plan shall be required as part of the contract with the individual landowner to ensure that facilities are properly removed after their useful life. Decommissioning shall follow the AIMA and its structure and landowners' protections. This contract shall include identification of and procedures for the Land Owner to access the Financial Assurance.
- C. The Land Owner shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.
- D. The decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of an SES.
- E. Upon request from the Cumberland County Board, the owner/lessee must provide documentation within thirty (30) days that the SES is still in use. If it is not, the owner/lessee of the SES will have 180 days after notification from the Cumberland County Board to remove the Solar Energy System from the property.
- F. Decommissioning of solar panels must occur in the event that they are not in use for 9 consecutive months.
- G. The plan shall include provisions for removal of all structure and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.

Remedies

- A. The Owner or Operator failure to materially comply with any provisions within this ordinance shall constitute a violation under this Ordinance.
- B. To accomplish the purpose of this ordinance, Cumberland County Board members, Highway Engineer, and Supervisor of Assessments shall have the right to enter upon any land which a SES or structure related to the operation or maintenance or such SES is situated. If entry is denied, the Cumberland County Board may seek an administrative search warrant to enter and inspect the land and structures.
- C. Prior to implementation of the existing County Procedures for the resolution of such default(s), the appropriate County body shall provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner or Operator a reasonable time period, not to exceed 45 days, for good faith negotiations to resolve the alleged default(s), except those default(s) which implicate public safety in which case the Cumberland County States Attorney in consultation with the Cumberland County Board may issue a stop order.
- D. Any violation of this ordinance shall be an offense punishable by a fine not to exceed \$1,000 per day. Each day a violation goes un-remedied after the Owner or Operator is put on notice of the violation via letter to Applicant/Owner/Operator by registered mail to Applicant/Owner/Operator Illinois registered agent is considered a separate offense. 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 for applicant to quickly and safely resolve any infraction.

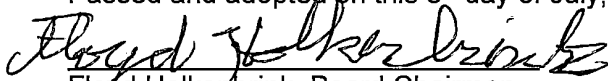
- E. It is understood that if the Cumberland County Board has to take action to enforce the ordinance against the Applicant/Owner/Operator, any expense necessarily incurred by the County, including but not limited to Attorney's and Engineering experts, should the County prevail, said Applicant/Owner/Operator shall reimburse the County all funds paid by the County to said Attorney's, Engineers, and other experts.
- F. If any provision of the Ordinance or its application to any person or circumstances is held invalid, the invalidity of that provision or application does not affect the other provisions or applications of this ordinance that can be given effect without the invalid provisions or application.

Use of Cumberland County Public Roads for Wind/Solar farms

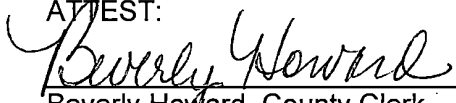
See separate ordinance

This ordinance will be effective on the date of passage.

Passed and adopted on this 8th day of July, 2025


Floyd Holkenbrink, Board Chairman

ATTEST:


Beverly Howard, County Clerk