

WARREN COUNTY, MO: Proposed Solar Ordinance Summary

The proposed solar regulations for Warren County, MO. provide that Commercial Solar Facilities (Solar Farms) constitute a use Permitted by Right in Agricultural Zoning Districts which also have been approved for a Solar Farm Overlay District, but subject to the following standards and requirements.

| | Standards & Requirements |
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| Required Permits | The developer, owner or operator of a commercial solar facility must obtain a Solar Energy Operating Permit from the Warren County Planning and Zoning Department. |
| Setbacks | The solar arrays shall be setback a minimum of 200 feet from non-participating residences in addition to adhering to the minimum principal setback standards for the Agricultural zoning district. |
| Screening | The regulations require the submittal of a landscaping plan which outlines proposed screening. Emphasis will be placed on screening around non-participating residences. |
| Glare | All solar panels must be constructed to minimize glare or reflection. |
| Fencing /Security | A security fence must be installed along all exterior sides of the solar facility. |
| Operations & Maintenance | The regulations require the submittal of an Operation and Maintenance Plan that shall include measures for maintaining safe access to the facility, stormwater and erosion controls, as well as general procedures for operation and maintenance of the facility and its components. |
| Ground Cover & Buffer Areas | Perennial vegetation shall be planted and maintained to prevent erosion, manage run off, build soil and provide natural habitats for animal life. |
| Decommissioning | The ordinance requires submittal of a decommissioning plan that describes the anticipated life of the solar facility, the anticipated manner of decommissioning and the anticipated site restoration actions. |
| Removal Bond | The regulations require the posting of a performance bond, surety bond, irrevocable letter of credit, or other form of financial assurance to ensure that funds in the amount of the estimated decommissioning costs will be available. |

WARREN COUNTY, MISSOURI
COMMERCIAL SOLAR DEVELOPMENT REGULATIONS

I. Statement of Policy – Consistency with Comprehensive Plan

The Warren County Comprehensive Plan recognizes the need for Economic Development and enhancement of Infrastructure and Public Services while acknowledging that Warren County does not presently have the financial resources with which to extend infrastructure to the more remote areas of the County. As a result, it is necessary that the cost of infrastructure development in the remote areas of the County be paid for in large part by the entities which desire to develop such areas. The Comprehensive Plan also recognizes that the provision of high-quality infrastructure will support and influence growth in areas most suitable for development without sacrificing the safety of all residents. The Comprehensive Plan also recognizes a need to balance the rights of property owners to subdivide/sell their properties to individuals or developers with the need to preserve prime farmland for the agricultural industry and to promote a “Sense of Place” as described in the Warren County Master Plan. Balancing the rights of the public as a whole with the rights of individuals has always been and will continue to be one of the most challenging aspects of government.

Warren County currently allows the use of Solar Panel Arrays, which are either freestanding or attached to a building or other structure, for residential or light commercial use, in all zoning districts. This reflects a policy determination that the development of Solar Facilities in agricultural areas is consistent with the Comprehensive Plan but prior hereto there were no regulations or standards for the development of commercial Solar Energy Facilities. These Regulations are therefore adopted to encourage the development of commercial scale solar photovoltaic facilities, to provide development standards that must be met by such facilities and to control where such facilities may be located so that the disruption of agricultural uses, wildlife and natural vegetation can be minimized.

II. Definitions:

Commercial Solar Facility means a group of interconnected solar panels/arrays that convert sunlight into electricity for the primary purpose of wholesale or retail sales of generated electricity, including all on-site equipment and facilities necessary for the proper operation of the facility, such as electrical collection and transmission lines, transformers, substations and operations and maintenance facilities. This definition excludes Solar Panel Arrays (Residential) that are constructed primarily to provide energy for use on-site. This definition does not include concentrating solar power facilities.

III. Commercial Solar Facilities – Permitted Use

Commercial Solar Facilities are permitted uses within all Agricultural Zoning Districts provided that there has been a Solar Energy Overlay District previously established in the subject

area and all Standards and Requirements of these regulations have been met.

Standards:

(A) Scope.

These Standards shall apply only to Commercial Solar Energy Facilities.

(B) Definitions.

Whenever the following terms are used in these Regulations, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.

- “Applicant” means the person who signs an application for a commercial solar facility operating permit; the term also includes the following, as applicable:
 - if Applicant applied in his or her individual capacity, then Applicant’s heirs, legal representatives, successors, and assigns; *or*
 - if Applicant applied in his or her capacity as agent, then Applicant’s principals and their other respective agents (in their capacity as agent), heirs, legal representatives, successors, and assigns; *and*
 - if Applicant is a tenant, then, in case Applicant abandons the Facility, all the landowners and their respective heirs, legal representatives, successors, and assigns.
- “Facility,” when capitalized, refers to a Commercial Solar Facility.
- “Planning and Zoning Department” refers to the Warren County Zoning Department.
- “Administrator” refers to the Administrator of the Planning and Zoning Department

(C) Prohibition.

No Facility shall be constructed or operated unless it is within an Agricultural Zoning District which has a previously established Solar Power Overlay District, and then only if in conformity with these Regulations.

(D) Required information.

An interested party to a planned Facility may apply for permission to construct a Commercial Solar Facility by applying to the Planning and Zoning Department. No standard form of application is necessary so long as the minimum requirements set forth in these Regulations are met. An operating permit must be approved prior to the commencement of any on-site work or on-site construction of any Facility components, to include but not limited to solar panels, fencing, roadway access, vegetation or buffer planting or cable or transmission line installation. Applicants shall provide the following information to the Building Department on a site plan or in narrative

form:

- (1) Number, location and spacing of solar panels/arrays.
- (2) Maximum number of MW (Megawatts) which may be generated by the Facility.
- (3) Planned location of underground or overhead electric lines.
- (4) Project development timeline.
- (5) Operation and maintenance plan.
- (6) Vegetation management and landscaping plan to include buffering or screening.
- (7) Decommissioning plan to be set forth in a separate agreement.
- (8) Road maintenance plan to be set forth in a separate agreement.
- (9) Name, address, email address and phone number of the contact person of the applicant.
- (10) The address and legal description of the proposed site to include the Property Parcel Numbers for each tract.

(E) Application Requirements.

- (1) The Applicant who is acting in an agency capacity must show authorization to apply on behalf of the principal.
- (2) The Applicant must provide a list of landowners who authorized placement of solar facilities on their properties along with a copy of any memorandum of lease if applicable.
- (3) All permits issued for a Facility pursuant to these regulations shall be effective for the operating life of the Facility, subject to continued compliance with these Regulations. The Administrator shall have the authority to renew the permit for additional periods of one year each subject to the following:
 - (a) A completed renewal application.
 - (b) Payment of the appropriate fees.
 - (c) Confirmation by the Administrator that the Facility is functioning and is in compliance with all applicable regulations.
 - (d) Confirmation that any previously identified and acknowledged violation of these Regulations has been properly corrected.

(F) Site and structure requirements.

(1) **Setbacks.**

Setbacks for all structures (including solar arrays) must adhere to the minimum principal setback standards for Agricultural zoning district. Additionally, solar panels shall be installed at least two hundred (200) feet from non-participating residences, unless non-participating landowners and the Applicant mutually agree upon a shorter distance.

(2) **Screening.**

Applicant shall submit a landscaping plan outlining proposed screening for the project, including existing vegetation, as may be suitable. Emphasis will be placed on screening adjacent non-participating residences. Blooming shrubs may be used in buffer areas as appropriate for visual screening. The types of vegetation to be planted must be approved in advance by the Administrator, which approval shall not be unreasonably withheld. The Applicant shall comply with all reasonably practicable requests of the Administrator with regard to the types of vegetation to be planted. Warren County shall have the right to contract with any outside agency or entity it desires to with regard to the types of plantings to be used. The cost of any such outside review shall be the responsibility of Warren County.

(3) **Utility Connections.**

All medium voltage cables between inverter locations and project substations shall be located and maintained underground. Other solar infrastructure, such as module-to-module collection cables, CAB cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained aboveground.

(4) **Glare minimization.**

All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard. In appropriate cases, the Administrator may require anti-reflective coatings.

(5) **Compliance with local, state and federal regulations.**

Each Facility must comply with applicable local, state and federal operational and safety laws and regulations. For the purposes of clarification only, nothing contained herein shall operate to change the right of the owner of an existing facility for such facility to be a “permitted use” so long as the facility is in compliance with required regulations.

(6) **Signage.**

Appropriate warning signs shall be posted at the Facility. No other signs, except standard identification signage related to Facility installation, manufacturing, and operations, shall be displayed.

(7) **Fencing/security.**

A security fence must be installed along all exterior sides of the Facility and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the utility scale solar installation is dismantled and removed from the site. The fence must be a minimum of 6 feet tall. The use of a deer fence to secure the panels is encouraged.

(8) **Site Access / Emergency Response.**

Access to the site for emergency responders shall be provided on the site plan detailing response guidance and disconnection locations as may be necessary. Applicant's contact information shall be conspicuously posted on site at the primary access point.

(9) **Concentrating Solar Power Facilities.**

Concentrating solar power facilities are prohibited.

(G) Operation and maintenance plan.

Applicant shall submit a plan for the operation and maintenance of the Facility, which shall include measures for maintaining safe access to the Facility, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.

(1) **Soil erosion and sediment control considerations.**

Applicant agrees to conduct all roadwork and other site development work in compliance with a NPDES Permit as required by the Missouri Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the Application submittal. If subject to NPDES requirements, Applicant must submit the permit for review and comment, and an erosion and sediment control plan before beginning construction. The plan must include both general "best management practices" for temporary erosion and sediment control both during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden run-off into waterways.

(2) **Ground cover and buffer areas.**

Ground around and under solar arrays and in project site buffer areas shall

be planted and maintained in perennial vegetated ground cover, and meet the following standards:

- (a) Topsoils shall not be removed during development, unless part of a remediation effort.
- (b) Perennial vegetation shall be planted and maintained in a density sufficient to prevent erosion, manage runoff and build soil. Seeds should include a mix of grasses and forbs, when feasible native to the region of the project site. A list of vegetation to be planted must be submitted to Administrator in advance for comment and approval. The Applicant shall comply with all reasonable requirements of the Administrator with regard to the type of vegetation to be planted.
- (c) Maintenance practices shall be consistent with recommendations made by qualified natural resource professionals retained by Warren County for such purpose.

(3) Maintenance, repair or replacement of facility.

Applicant shall maintain the Facility until a decommissioning plan has been approved by the Building Department. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements.

(H) Decommissioning and site reclamation plan.

(1) Plan – General Contents.

Applicant shall provide a decommissioning plan to the Planning and Zoning Administrator that describes the anticipated life of the Facility; the anticipated manner in which the project will be decommissioned; the anticipated site restoration actions and the estimated decommissioning costs in current dollars (decommissioning costs less salvage value).

(2) Plan – Financial Requirements.

The decommissioning plan shall describe the mechanism for the posting at commencement of commercial operations of a performance bond, surety bond, irrevocable letter of credit or other form of financial assurance sufficient to ensure that funds in the amount of the currently estimated decommissioning costs, net of salvage value, will be available for decommissioning and restoration. The financial assurance shall automatically renew each year or have no expiration and shall not be released until the Facility has been decommissioned and the site restoration

has been completed. The decommissioning plan and financial assurance shall be updated by the owner of the Facility every five (5) years and adjusted as necessary to ensure sufficient funds are available to decommission the project over its life.

(3) **Plan – Restoration Activities**

Restoration or reclamation activities shall include, but not be limited to, the following:

- (a) Restoration of the pre-construction surface grade and soil profile after removal of structures, equipment, graveled areas and access roads.
- (b) Re-vegetation of restored soil areas with native crops, seed mixes and plant species suitable to the area.
- (c) For any part of the Facility on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land to the extent such a plan complies with these regulations. Any use of remaining structures must be in conformance with the regulations in effect at that time.

(4) **Decommissioning**

Following a continuous one-year period in which no electricity is generated, or if substantial action on the project is discontinued for a period of one year, Applicant shall have eighteen (18) months to complete decommissioning of the Facility. Decommissioning shall be completed in accordance with the approved decommissioning plan. Applicant shall notify the Planning and Zoning Department in writing when decommissioning is complete. If decommissioning is not completed by the end of such period, Warren County shall have the right to retain the services of an appropriate firm to decommission the facility and to use the funds or other financial assurances to pay for the cost of decommissioning.

IV. Permit Fees.

The fees to operate a Facility shall be comprised of two components as follows:

- (A) Annual Permit Fee: The annual permit fee shall be due and payable at the Facility's commencement of commercial operations and each year thereafter on the annual renewal date. If the annual permit fee is not paid within thirty (30) days of its due date, Warren County shall have the right to direct the Facility to cease all operations pending payment. The annual permit fee shall be based upon the rated AC production

capacity as identified on the Application multiplied by the rate of \$2,250.00 (\$2,250.00 per MW).

(B) Annual Processing Fee: The annual processing fee shall be due and payable at the Facility's commencement of commercial operations and each year thereafter on the annual renewal date. If the annual processing fee is not paid within thirty (30) days of its due date, Warren County shall have the right to direct the Facility to cease all operations pending payment. The annual processing fee shall be based upon the rated AC production capacity of a Facility multiplied by the rate of \$250.00 per MW.

(C) Impact of future taxation: If, at any time after the adoption of these regulations, the State of Missouri enacts legislation which allows political entities to assess solar energy systems not held for resale with property or ad valorem taxes, the amount of tax which is collected by Warren County for Warren County and other political entities within Warren County shall be offset against the Annual Permit Fee and Annual Processing Fees charged by Warren County pursuant to these regulations on a dollar for dollar basis. If the amount of taxes equals or exceeds the Annual Permit Fee and Annual Processing Fees, then in such event there shall not be any Annual Permit Fee and Annual Processing Fee for the year in question.

V. Independent Review of Applications.

Warren County shall have the right to retain, at its own cost and expense, an Independent Registered Professional Engineer (IRPE) to review and make recommendations to the Warren County Planning and Zoning Department with respect to any original application and/or any renewal application. Any recommendations of the IRPE which are adopted by the Warren County Planning and Zoning Department shall be submitted in writing to the applicant as part of Warren County's findings.

VI. Review of Planning and Zoning Decision.

An Applicant which believes that it has been aggrieved by a decision of the Administrator with respect to an original or renewal Application may appeal such decision to the Warren County Commission for review. The appeal must be filed with the Clerk of the County Commission within thirty (30) days from the date the decision was made. The Applicant shall submit an appeal deposit of \$750.00 along with the appeal. The deposit shall be used to pay for the cost of processing the appeal and for the cost of the court reporter to be employed at the hearing. If the deposit is more than that required to pay for the processing and court reporter the Applicant shall be given an appropriate refund. If the deposit is insufficient the Applicant shall be required to pay the balance. The County Commission shall set a date for the hearing of the appeal at which time the Applicant will be given the opportunity to present evidence and testimony as to the grounds for the basis of the appeal. The County Commission shall thereafter determine as to whether or not the appeal should be granted and the decision of the Administrator upheld or reversed. If the Applicant is aggrieved by the final decision of the

Warren County Commission the Applicant shall have the right to pursue an appeal in accordance with Chapter 536 RSMo.