

Gallatin County Ordinance

# 08-15-24-1

GALLATIN COUNTY GREEN

ENERGY FACILITIES

ORDINANCE

It is hereby ordained:

That this Gallatin County Green Energy Facility Ordinance (Ord. #08-15-24-1) is made pursuant to the authority granted the County by Chapter 55 of the Illinois Compiled Statutes.

**TITLE.**

This ordinance shall be known as the Green Energy Facilities Ordinance.

**AUTHORITY.**

This ordinance is adopted pursuant to authority granted by 55 ILCS Chapter 5 - 12001.

**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 or statute.

**APPLICABILITY.**

This ordinance applies to all unincorporated lands within the boundaries of Gallatin County, Illinois.

**DEFINITIONS.**

In this ordinance:

"Abandonment" means to give up, discontinue, and withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for 12-months shall be considered abandoned.

"Board" means the Gallatin County Board.

"Building" means any structure having a roof supported by columns or walls, and designated or intended for the shelter, solar panel, support, enclosure or protection of persons, animals, or chattels.

"County Board" means Gallatin County Board.

"County Engineer" means the Gallatin County Engineer.

"Code Administrator" means the Gallatin County Supervisor of Assessments.

"Decommissioning plan" means a document, created by an engineer licensed in the State of Illinois, that details the planned shut down and/or removal of a renewable energy facility from operation or usage.

"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.

"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.

"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, Gallatin County, or any Municipality or Township in Gallatin County, Illinois.

"Residence" means a building used as a dwelling for one or more families or persons. "Residential Area" means any area within one quarter 1/4th mile of a solar energy facility having twenty-five or more dwellings.

"Commercial Solar Energy Facility" & "Commercial solar energy system" means any device or assembly of devices that (i) is ground installed and (ii) uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property on which the device or devices reside. (From 35 ILCS 200/10- 720) 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.

"AIMA" means Agricultural Impact Mitigation Agreement as defined in 505 ILCS 147.

## **STANDARDS.**

All standards contained within this Ordinance shall be followed.

### **Set Backs**

Setbacks shall be in accordance with 55 ILCS 5/5-12020.

## **Security**

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

## **Equipment**

On site power lines between solar panels and inverters shall be placed underground. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

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. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

## **PERMIT REQUIREMENTS**

### **Building Permit**

A building permit is required to be obtained prior to the construction/installation of each solar renewable energy facility or addition to a pre-existing facility. The building permit fee shall be based upon nameplate megawatt capacity according to the following schedule:

A one-time flat fee of \$10,000 per megawatt per nameplated megawatt of capacity of each facility

### **BUILDING PERMIT PROCEDURE**

#### **Application**

Building permit applications shall be submitted to the Supervisor of Assessments. The Application must be on a form approved by the Supervisor of Assessments and must be accompanied by 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, including any current or proposed ingress or egress; 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, shall be required for each green energy facility. Special inspections by approved inspection agencies may be required.

#### **Time Frame**

The Gallatin County Board should issue a permit or deny the application no later than one-month of the date on which the application is received.

#### **Meets Requirements**

The Code Administrator shall issue a building permit for a solar energy facility if the application materials show that the proposed location meets the requirements of this ordinance.

### **Copies**

If the application is approved, the Supervisor of Assessments shall retain the application, with all supporting documentation.

### **Rejection**

If the application is rejected, the Supervisor of Assessments shall notify the applicant in writing and provide a written statement of the reason why the application was rejected.

### **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 solar facility is complete.

### **Expiration**

A Building permit issued pursuant to this ordinance expires if:

1. The solar renewable energy facility is not installed and functioning within 2 years from the date the permit is issued; or
2. The renewable energy facility is out of service or otherwise unused for a continuous 12-month period. The County Board may grant extensions to the (2) year deadlines based on hardship conditions.

### **Fees**

The permit fee shall be paid at the time of approval of the building permit by the Supervisor of Assessments and paid to the County through the County Treasurer's Office.

Decommissioning reports as required by this Ordinance can be contracted by the Solar Energy System Operator or the County at the Solar Energy System Operator's expense.

### **Financial Assurance**

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 building permit under this ordinance. Gallatin County shall require a performance bond or surety bond financial assurance to Gallatin County for each renewable energy facility that guarantees the performance of the restoration requirement set forth.

### **RESTORATION REQUIREMENT.**

## **Abandonment**

Any solar energy facility shall be deemed abandoned if any of the following occurs:

1. Out of service for a continuous 12-month period;
2. The Operating entity has failed to make payment on property taxes for the site; or
3. The property owner does not receive payments pursuant to their agreement with the Operating entity.

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 SHALL withdraw the Notice of Abandonment if the Board approves an extension based on hardship conditions.

Any Operating entity that has been given a Notice of Abandonment shall be required to pay a reinstatement fee equal to ten percent (10%) of the most recent published assessed property taxes on the facility for withdrawal of the Notice of Abandonment.

## **Termination**

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

## **Physical Removal**

Within 12 months of receipt of Notice of Abandonment or within 12 months of providing Notice of Termination of Operations, the owner of a solar energy facility must:

Remove all solar panels, above ground improvements, and outdoor storage;

Remove all foundations, pads, and underground electrical wires to a depth of 5 feet below the surface of the ground; and

Remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.

Within 18 months of receipt of Notice of Abandonment or within 18 months of providing Notice of Termination of Operations, the owner of a solar energy facility must reclaim the land as prescribed in the standard AIMA.

## **Failure to Comply**

Failure to comply with any of the conditions or restrictions imposed on a shall be deemed a violation of 55 ILCS 5-12001.

## **Appeals**

All Code Administrator determinations may be appealed to the entire Gallatin County Board.

#### **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.

#### **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 building permit issued pursuant to this ordinance.

#### **ADMINISTRATION AND ENFORCEMENT.**

##### **Administration**

This ordinance shall be administered by the Supervisor of Assessments.

##### **Entering Property**

The Supervisor of Assessments or its representatives may enter any property for which a special 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.

#### **PENALTIES.**

##### **Zoning petty offense**

Building Permit violation- 1st written warning, 2nd violation (\$250.00) fine, 3rd violation (\$500.00) fine. Building- petty offense. Maximum (\$500.00) fine with each week violation continues uncorrected constituting a separate offense. Each day a violation continues shall be considered a new offense.

##### **Enforcement**

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

#### **COUNTY HIGHWAY ROAD AGREEMENTS**

Each renewable energy facility shall have a written agreement with County Engineer regarding use of County roads, 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. Additionally, each renewable energy facility shall have a written agreement with the Township Road Commissioner regarding use of any township road, bridges, and rights-of-way.

## **RELATED RULES AND REGULATIONS**

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

## **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.

## **DECOMMISSIONING PLAN**

### **Elements**

A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. The decommissioning/reclamation plan must be completed by, signed, and sealed by a third-party Engineer licensed to work in the State of Illinois. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months, the operating company and or the land owner have 12 months to complete the decommissioning plan or the County can grant an extension if needed or the County shall take necessary decommissioning steps. The plan shall include provisions for removal of all structures (including equipment, fencing and roads) and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.

Decommissioning security financing shall be required by the County in order to assure the proper decommissioning of the site and in no instance shall the financial security be less than \$1,000.00 per acre. This security financing shall be in the form of a bond. The decommissioning plan and financial security must be presented to and accepted by the Gallatin County Board prior to the issuance of a building permit for the facility.

An update to this decommissioning plan should be submitted to the County every three years. In addition any decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) shall be submitted with the application. Failure to submit a decommissioning plan in accordance with this Ordinance shall be considered a petty offense. Failure to correct the petty offense within thirty (30) days shall result in the site being issued a Notice of Abandonment and all penalties associated with that designation shall apply.

The County reserves the right to require 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.

### **Remedies**

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, 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 Gallatin County Solar Energy Facilities Ordinance provisions in addressing the resolution of such default(s) shall govern.

**EFFECTIVE DATE:**

This Ordinance shall become effective and in full force immediately upon its passage and meeting the statutory publication requirements and shall remain in effect until modified or rescinded.

On roll call vote **ORDINANCE NO. 08-15-24-1** passed this 15th day of August, 2024.

**ATTEST:**

Deanna Bryant  
Deanna Bryant,  
County Clerk and Recorder



**GALLATIN COUNTY BOARD**

Andrew Lunsford Voting Yes

Andrew Lunsford, Chairman

Warren Rollman Voting Yes

Warren Rollman

Lisa Coonse Voting Yes

Lisa Coonse

Randy Drone Voting Yes

Randy Drone

Gary Vickery Voting Yes

Gary Vickery

Vote Total: Yea 5 Nay 0

Ordinance Passes ✓  
Ordinance Fails \_\_\_\_\_