

SOLAR ENERGY SITING ORDINANCE OF MENARD COUNTY

A Center of Lincoln's Illinois



Adopted May XX, 2023

TABLE OF CONTENTS

	<u>Page</u>
1.01 Title	3
1.02 Purpose	3
2.01 Definitions	3-5
3.01 Applicability	6
4.01 Prohibition	6
5.01 Special Use Permit Application	6-8
6.01 Design and Installation	8-18
7.01 Operation	18-21
8.01 Liability Insurance and Indemnification	21
9.01 Decommissioning and Site Reclamation Plan Required	22
10.01 Administration and Enforcement	22
11.01 Fee Schedule and Permitting Process	23
12.01 Hearing Facilitator	24
13.01 Hearing Factors	24-26
14.01 Interpretation	26
15.01 Severability	26
16.01 Effective Date	26
17.01 Appendix	27

1.01 TITLE

This Ordinance shall be known, cited and referred to as the Menard County Solar Energy Siting Ordinance.

1.02 PURPOSE

The purpose of this ordinance is to facilitate the construction, installation, and operation of Commercial Solar Energy Conversion Systems (CSECS) in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, historical and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

2.01 DEFINITIONS

"Applicant" means the entity who submits to the Menard County an application for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee (as defined herein),

"Commercial Operation Date" means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.

"Commercial Solar Energy Facility" or **"Commercial Solar Energy System"** means any device or assembly of devices that is ground installed and 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.

"Commercial Solar Energy Building Permit" means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. A Commercial Solar Energy Building Permit may be issued by the Menard County after a Commercial Solar Energy Facility has obtained a Special Use Permit from the Menard County Board and the Menard County Zoning Office determines that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial Solar Energy Facility to the Menard County prior to commencement of construction of the Commercial Solar Energy Facility. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Commercial Solar Energy Facility.

"Commercial Solar Energy Facility Permittee" means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Ordinance shall include a Commercial Solar Energy Facility Permittee's successors-in-interest and assigns.

"Financial Assurance" or "Financial Security" or "Decommission Security" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

"Notice to Proceed" means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial Solar Energy Facility and identifying the date on which the construction activities are scheduled to commence.

"Nonparticipating property" means real property that is not a participating property. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County.

"Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County: a school, place of worship, day care facility, public library, or community center.

"Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.

"Owner" means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar Energy Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

"Participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.

"Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the Menard County.

"Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification in the State of Illinois.

"Protected lands" means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

"Public Conservation Lands" means land owned in fee title by Menard County, state or federal agencies and managed specifically for conservation purposes, including but not limited to Menard County, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildlife refuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

"Special Use Permit" means a permit approved by the Menard County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the Menard County Board.

"Structural Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois and will analyze, design, plan, and research structural components and structural systems to achieve design goals and ensure the safety and comfort of users or occupants. Their work takes account mainly of safety, technical, economic, and environmental concerns, but they may also consider aesthetic and social factors of the WECS project.

"Substation" means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility and increases the voltage for connection with the utility's transmission lines.

"Supporting Facilities" means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility.

"Variation" A variation is a minor deviation from the bulk requirements of this ordinance where such variation will not be contrary to the public interest and where, do to conditions peculiar to the property and not the direct result of the actions of the owner, a literal enforcement of this ordinance would result in unnecessary hardship.

3.01 APPLICABILITY

- A. This Ordinance governs the siting of CSECS and Substations that generate electricity to be sold to wholesale or retail markets.
- B. Owners of CSECS with an aggregate generating capacity of 0.5MW or less who locate the CSECS(s) on their own property are not subject to this Ordinance.

4.01 PROHIBITION

- A. No Commercial Solar Energy Facility or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the Menard County, unless prior siting approval has been obtained for each individual Commercial Solar Energy Facility or for a group of Commercial Solar Energy Facilities under a joint siting application pursuant to this Ordinance

5.01 SPECIAL USE PERMIT APPLICATION

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the Menard County Zoning Office to be forwarded onto the Menard County Board of Commissioners for public hearing and approval or denial.
- B. The Special Use Permit requested by the applicant will be understood to be used across all Menard County Zoning Districts unless it is specified otherwise in the application.
- C. The Special Use Permit application shall contain or be accompanied by the following information:
 - 1. A Commercial Solar Energy Facility Summary, including, to the extent available:
 - a. a general description of the project, including
 - i. its approximate overall name plate generating capacity,
 - ii. the potential equipment manufacturer(s),
 - iii. type(s) of solar panels, cells and modules,
 - iv. the number of solar panels, cells and modules,
 - v. the maximum height of the solar panels at full tilt,
 - vi. the number of Substations,

- vii. a project site plan, project phasing plan and project construction timeline plan, and
 - viii. the general location of the project; and
 - ix. transmission location – both above and below ground;
 - b. a description of the Applicant, Owner, and Operator, including their respective business structures;
2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property;
 3. A site plan for the CSECS Project showing the planned location of each CSECS panel array, including legal descriptions for each site, GPS coordinates of each CSECS panel array, and anchor bases (if any), Participating and Non-participating Residences, Occupied Community Buildings parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, electrical cabling from the CSECS to the Substation(s), ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed CSECS, the location of all known communications towers within two (2) miles of the proposed CSECS, and the layout of all structures within the geographical boundaries of any applicable setback;
 4. All determinations of No Hazard and Hazard to Air Navigation from the Federal Aviation Administration;
 5. A proposed Decommissioning Plan for the CSECS Project including cost estimations;
 6. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
 7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
 8. The topographic map shall include the CSECS Project site and the surrounding area;

9. Any other information normally required by the Menard County as part of its permitting requirements for siting buildings or other structures;
 10. Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
 11. Results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the United States Fish and Wildlife Service's Land-Based Solar Energy Guidelines.
 12. Information demonstrating that the CSECS Project will avoid protected lands.
 13. All required Utility permitting to be issued pursuant to the Menard County Highway Policy.
 14. Any other information requested by the Menard County or the Menard County consultants that is necessary to evaluate the siting application and operation of the CSECS Project and to demonstrate that the CSECS Project meets each of the regulations in this Ordinance, including the Special Use Permit standards set forth below.
- D. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the Menard County Zoning Office; and the Menard County Board.
- E. The Applicant shall submit Twenty-five (25) copies of the Special Use Permit application to the Menard County, and at least one (1) copy in electronic format.

6.01 DESIGN AND INSTALLATION.

Design Safety Certification

1. CSECSs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), or an equivalent third party. All solar panels, cells, and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems shall be new equipment commercially available; no used or experimental

equipment shall be used without the approval of a variance by the Menard County Board.

2. CSECS(s) shall conform to applicable industry standards, including:

- National Electrical Safety Code (NESC)
- National Electric Code (NEC)
- National Fire Protection Agency (NFPA)
- Occupational Safety and Health Administration (OSHA)
- American Society of Testing and Materials (ASTM)
- Institute of Electrical and Electronic Engineers (IEEE)
- International Electrotechnical Commission (IEC)
- American Society of Civil Engineers (ASCE)
- American Concrete Institute (“ACI”)
- United States Environmental Protection Agency (EPA)
- National Electrical Testing Association (NETA)
- Underwriter’s Laboratories (UL)
- American National Standards Institute (“ANSI”)

3. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the CSECS Building Permit application process, that the design of the Commercial Solar Energy Facility is within accepted professional standards, given local soil, subsurface and climate conditions.

B. Electrical Components

All electrical components of the CSECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI and International Electrical Commission).

C. Height

1. No component of a solar panel, cell or modules may exceed twenty (20) feet in height above the ground at full tilt.

D. Aesthetics and Lighting

The following items are recommended standards to mitigate visual impact:

1. Vegetative Screening: A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. 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 shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants.

2. Lighting: If lighting is provided at the Commercial Solar Energy Facility, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
3. Intra-project Power and Communication Lines: All power lines used to collect power from individual CSECSs and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

E. Fencing

1. A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the Commercial Solar Energy Facility.

F. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations, and at all entrances to the CSECS facility.
2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.

G. Setback Requirements

1. The Commercial Solar Energy Facility shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:
 - i. Occupied Community Buildings and Dwellings on Nonparticipating Properties: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
 - ii. Nonparticipating Residences: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
 - iii. Boundary Lines of Participating Property: None.

- iv. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the nonparticipating property.
- v. Public Road Rights-of-Way: fifty (50) feet the nearest edge of the public road right-of-way.

H. Compliance with Additional Regulations

- 1. Menard County municipalities may solely require pre-annexation/annexation agreements and shall regulate CSECS(s) (65 ILCS 5/11-13-26) within the 1.5-mile planning jurisdiction.

Municipal CSECS: CSECS(s) that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.

a. Prior to the start of any construction or ground work, the facility owner must either:

- 1. Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and the County identifying that the municipality will be taking full jurisdiction over the project site and affected properties for the life of the project; or
 - 2. Present documentation that the proposed site has been the subject of an annexation into the municipality.
- 2. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

I. Use of Public Roads

- 1. An Applicant proposing to use any County, municipality, township, or village road(s) for the purpose of transporting CSECS(s) or Substation parts, infrastructure and/or equipment for construction, operation, or maintenance of the CSECS(s) or Substation(s) shall follow the Menard County Road Use Agreement executed with the Menard County Engineer and applicable Road District Commissioner. The Applicant shall notify the Menard County Engineer of need to use roads and associated infrastructure when performing replacement of infrastructure and shall:
 - i. Identify all such public roads; and

- ii. Obtain applicable weight and size permits from relevant government agencies prior to construction.
- 2. To the extent an Applicant must obtain a weight or size permit from the Menard County, municipality, township or village, the Applicant shall:
 - i. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage and the need for pre-construction modifications and improvements on existing roadways; and
 - ii. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the WECS Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner and/or the County Engineer to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit with the Menard County Zoning Office.
 - iii. Enter into a road use agreement with the Menard County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans;
 - iv. Project traffic map;
 - v. Maximum hauling weight loads per roadway;
 - vi. Project scope of repairs;
 - vii. Post-construction repairs;
 - viii. Insurance;

- ix. Financial Security in forms and amounts acceptable to Menard County;

The road use agreement shall require the Applicant to be responsible for the reasonable cost of improving roads used to construct CSECS and the reasonable cost of repairing roads used by the facility owner during construction of the CSECS so that those roads are in a condition that is safe for the driving public after the completion of the CSECS construction. Roadways improved in preparation for and during the construction of the CSECS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

1. Any road not shown as being initially utilized for hauling and/or construction traffic, but is noted to have hauling and/or construction traffic on it during construction for a total of two (2) offenses, will then be included into the schedule of initially noted haul routes scheduled for repair and maintenance.
3. All repairs and improvements to Menard County and Road District public roads and roadway appurtenances shall be subject to the prior approval of the Menard County Board of Commissioners before being made and shall also be subject to inspection and acceptance by the Menard County Engineer and Road District Commissioner after such repairs and improvements are completed. The Menard County and Road District's Road Use Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of Menard County and Road District public roads and highways, must be approved by the Menard County Board of Commissioners and respective Road Commissioner prior to the Board's approval of any CSECS Building Permit applications related to the construction of the proposed WECS Project.

J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the CSECS Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports and stamped engineering reports regarding mine subsidence possibilities to the County Engineer with respect to each CSECS Tower location as part of its CSECS Special Use Permit application. The Applicant shall follow the guidelines for Conservation Practices Standards and Natural Resource Inventory Report submitted by the Menard County Soil and Water Conservation District (or equivalent regulatory agency). The Applicant shall submit grading plans for the proposed Substations and any related infrastructure for review and comment by the Menard County Soil and Water Conservation District. The grading plans shall be a public record and shall be submitted

as part of the Special Use Permit application for the issuance of any CSECS Building Permit for the construction of said substations.

K. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the CSECS Project application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the Menard County Board of Commissioners as part of the Special Use Permit application.

L. Avian and Wildlife Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to wildlife. The Applicant will comply with all applicable avian and wildlife protection rules and regulations including:

1. Endangered Species Act (protects federally listed threatened and endangered species) (16 U.S.C. §§1531 et seq.)
2. Illinois Endangered Species Protection Act (“IESPA”) (520 ILCS 10)
3. Migratory Bird Treaty Act (“MBTA”) (16 U.S.C. §§ 703-712), and
4. Bald and Golden Eagle Protection Act (“BGEPA”) (16 U.S.C. 668-668d and 50 Code of Federal Regulation [CFR] 22.26)

M. Illinois Environmental Protection Agency Impact Study

The Applicant, at its expense, Illinois Environmental Protection Agency conduct water impact studies and submit said studies to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to water under Section 401 of the Clean Water Act, and Section 402 - National Pollutant Discharge Elimination (NPDES) Permit of Construction Site Activities.

N. Coal Mine – Mine Subsidence Study

The Applicant, at its expense, shall have a third party, a qualified professional engineer licensed in the State of Illinois (after submission of resume and relevant work experience) conduct a Coal Mine – Mine Subsidence impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each CSECS or CSECS Project shall be located, designed, constructed, and operated to avoid siting over active or inactive mine areas.

O. Historical Impact Study

The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an historical impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each CSECS or CSECS Project shall be located, designed, constructed, and operated so as to avoid and if necessary, mitigate, the impacts to rich historical history of Menard County.

P. As-Built Map and Plans

Within sixty (60) calendar days of completion of construction of the CSECS Project, the Applicant or Operator shall deliver 2 (two) sets of "as-built" maps, including all CSECS towers, driveways, substations, replaced drainage structures and all transmission (above and below ground) in the site plan and engineering plans for the CSECS Project that have been signed and stamped by a Professional Engineer and a licensed surveyor in the State of Illinois, with 1 (one) set being in an electronic format.

Q. Engineer's Certificate

The CSECS Project engineer's certificate shall be completed by a structural engineer or Professional Engineer licensed in the State of Illinois, and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

R. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the CSECS Project in complete conformance with the construction plans contained in a

Menard County approved submitted Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations unless otherwise submitted and approved by Menard County.

2. The Applicant shall be bound by all proposals and representations made under oath at the public hearing before the Menard County Board of Commissioners, which shall be considered supplementary conditions of the Special Use Petition granted by the Menard County Board of Commissioners, even if not directly specified herein.

S. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
2. The Menard County may retain a qualified independent code inspector or professional engineer both to make appropriate inspections of the CSECS Project during and after construction and to consult with the Menard County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the CSECS Project is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the Menard County in retaining said inspector or engineer shall be reimbursed by the Applicant of the CSECS Project within thirty (30) days of the presentation of invoice.
3. The Applicant shall provide locked metal gates or a locked chain are installed at the access road entrances of all the CSECS facilities. An exception may be made when the landowner has filed a written statement with the Menard County which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to the Menard County.
4. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the CSECS Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

5. The Applicant shall provide an executed road use agreement to the Menard County Board of Commissioners between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation to the Menard County and Road District showing approved entrances, construction access, and haul routes prior to the issuance of any CSECS Building Permit or prior to construction of the CSECS Project.
6. Treatment of Existing Drainage Tile shall be the responsibility of the CSECS Owner to notify the Menard County Engineer if the construction of any part of the project encounters underground field drainage tiles. A plan sufficient to provide remediation shall be submitted, reviewed, and approved by the Menard County Engineer. All existing drainage tiles that will be crossed by private access roads shall be removed and replaced with a load resistant tile as specified by the Menard County Engineer. This shall be done before the private access roads are used for construction purposes. The load resistant tile shall extend a minimum of 30 feet across any private access roads and shall be of the same diameter of the existing tile. To ensure that all drainage tiles have been located, reasonable measures should be made to locate all existing tile in the vicinity of the private access roads by exploratory trench or other appropriate methods. All drainage tile that are encountered during construction shall be noted on the site plan.
7. The Applicant shall provide from U.S. Environmental Protection Agency (EPA) a completed Spill Prevention Control and Countermeasures (SPCC Plan). The Applicant shall submit the executed SPCC Plan to the Menard County Board of Commissioners as part of the Special Use Permit application to be implemented in coordination and at the time of Issue for Construction design documents.
8. The Applicant shall notify the County of any material changes to the information provided in subsections that occur prior to the issuance of a building permit.
 - a) The Applicant shall not commence construction activity associated with the CSECS Project before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week within one-quarter ($\frac{1}{4}$) of a mile of any non-participating landowner unless a waiver is obtained from such landowner.
 - b) Prior to issuance of a building permit, the Applicant shall provide documentation to the Menard County Zoning

Administrator specifications for the CSECS equipment chosen for the Project.

9. c) The Applicant shall commence construction of the CSECS Project within thirty-six (36) months of the date of the Special Use Petition approval by the Menard County Board of Commissioners. After construction is complete, the Petitioner shall provide certified “as-built” drawings to the Menard County Zoning Administrator and the Menard County Assessor showing the locations of the CSECS Turbines and a legal description of the land utilized for the improvements. The Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use Petition to the land utilized for the improvements.

7.01 OPERATION.

A. Maintenance

1. Annual Report. The Applicant (CSECS Permittee) shall submit, to the Menard County Department of Zoning on the first Monday of May of each year following CSECS project approval by the Menard County Board of Commissioners, a report regarding CSECS maintenance and operation. This report contains the following information:
 - (i) a general description of any physical repairs, replacements or modification(s) to the CSECS and/or its infrastructure;
 - (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the Applicant concerning the CSECS and the resolution of such complaints;
 - (iii) calls for emergency services, including the nature of the emergency and how it was resolved;
 - (iv) status of liability insurance; and
 - (v) Any other information that the Menard County might reasonably request.
 - (vi) a general summary of service calls to the CSECS. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article 10.01 (Administration and Enforcement).
2. Within ninety (90) days of the receipt of this annual report, the Menard County department of zoning shall review it, conduct an on-site field review of the CSECS project, and within one hundred twenty (120) days of the receipt of the report, provide a summary of the report and its on-site field review to the Menard County Board of Commissioners.

3. The department of zoning shall charge a fee for this annual review in the amount of no more than two hundred fifty dollars (\$250.00) per CSECS project area facility. This fee shall be provided to the department of zoning by the CSECS applicant, owner and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.
4. The applicant, owner and/or operator of a CSECS project shall provide that the Menard County Department of Zoning have access to the CSECS project site for the purposes described in [Section] 7.01(A)(2) above. Failure to provide access shall be deemed a violation of the Special Use Permit.
5. Re-Certification. Any physical modification to the CSECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article 6.01 Design and Safety Certification section, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification.

B. Coordination with Emergency Responders:

1. The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the Solar power facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers, and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the CSECS Project.
2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the CSECS Project. Special equipment to be provided includes, but is not limited to, key access (Knox) boxes, and permanently installed rescue equipment such as winches, pulleys, harnesses, etc.

3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated CSECS Project representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week 365 days per year"). Any change in the designated CSECS Project representative or his/her contact information shall be promptly communicated to the Menard County Board of Commissioners in writing. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annually basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.
5. Any emergency work or response required in direct response to the CSECS project or individual CSECS array, will be billed directly to the developer outside of the scope of the Special Use Permit pursuant to (70 ILCS 705/11f) for local responders. Any specialized operation requiring municipal responders, response will be billed per their standard base rate of their agency.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the CSECS shall be removed from the site promptly, and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials related to the construction, operation and maintenance of the CSECS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state and federal laws.
3. The CSECS Project shall comply with existing septic and well regulations as required by the Menard County Public Health Department, The Sangamon Menard County Department of Public Health and the State of Illinois Department of Public Health.

D. Signage

Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to and at all entrances to the Commercial Solar Energy Facility.

E. Aviation Safety

The Applicant shall not locate a CSECS facility to create an airport hazard or obstruction to any existing airport, restricted landing area or heliport pursuant to Illinois Administrative Code Title 92: Transportation, Chapter I: Department of Transportation, Subchapter b: Aeronautics Part 14 Aviation Safety.

F. Drainage Systems

The Applicant at its expense will repair, within 90 days after a complaint is filed, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance, and operation phases of the CSECS Project in accordance with the Agricultural Impact Mitigation Agreement and the IDOA Drain Tile Repair schedule figures 1-2. (See Appendix (3))

G. Complaint Resolution

The Applicant shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the CSECS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the Menard County Zoning Office. All costs and fees incurred by the County in resolving or attempting to resolve complaints shall be reimbursed by the Applicant of the CSECS Project. The Applicant shall also designate and maintain for the duration of the CSECS Project either a local telephone number or a toll-free telephone number and an email address as its public information inquiry / and complaint "hotline" which shall be answered by a customer service representative on a 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to

find location on their websites and at the CSECS Project site on signage.

8.01 LIABILITY INSURANCE AND INDEMNIFICATION.

Commencing with the issuance of a CSECS Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Twenty Million Dollars (\$20,000,000.00) per occurrence and in the aggregate; and shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed" by the Applicant under the turbine supply and/or balance of plant construction contract(s) for the CSECS Project in coverage amounts of at least Twenty Million Dollars (\$20,000,000.00) per occurrence and Fifty Million Dollars (\$50,000,000.00) in the aggregate during the life of the CSECS Project. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a CSECS Building Permit, corresponding policies, and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter. Additionally, the Applicant shall name Menard County and its agents as an additionally insured participant on all policies.

The Applicant (CSECS Permittee) shall defend, indemnify and hold harmless the Menard County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance, and removal of the CSECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (CSECS Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the Menard County's other indemnification rights available under the law.

9.01 DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED.

The Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Menard County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Solar Energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial

Assurances for the benefit of Menard County with the Treasurer of Menard County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide updated Financial Assurances to the benefit of Menard County. That plan shall include:

1. A Memorandum of Understanding with property owners of each CSECS facility, that if decommissioning fees exceed what has been assured through the decommissioning financial plan, property owners shall be liable for remaining costs.
2. Provisions for the removal of structures, debris and cabling on the surface and at least five (5) feet below the surface, and the sequence in which removal is expected to occur;
3. Provisions for the restoration of the soil and vegetation;
4. An estimate of the decommissioning costs certified by a professional engineer in current dollars. The engineer providing this estimate shall be engaged under contract by the Menard County Engineer and all costs associated with this engagement shall be borne by the applicant;
5. A financial plan approved by The Menard County Board of Commissioners to ensure funds will be available for decommissioning and land restoration. The applicant shall provide the Menard County with a new estimate of the cost of decommissioning the CSECS project every five (5) years under the same conditions as set forth in the Agricultural Impact Mitigation Agreement. Upon receipt of this new estimate, the Menard County may require, and the applicant, owner and/or operator of the CSECS project shall provide, a new financial plan for decommissioning acceptable to the Menard County. Failure to provide an acceptable financial plan shall be considered a cessation of operations;
6. 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
7. A provision that Menard County shall have access to the site and to the funds outlined above to effect or complete decommissioning one (1) year after cessation of operations.

10.01 ADMINISTRATION AND ENFORCEMENT.

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/ or failure to comply with any law or regulation, shall be a default and shall be grounds for revocation of the Special Use Permit by the Menard County Board within Forty-five (45) days.
- B. Prior to implementation of the applicable Menard County procedures for the resolution of default(s), the Menard County Board of Commissioners must first provide written notice to the Applicant and Operator setting forth the alleged

default(s), and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the Menard County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable Menard County ordinance provisions addressing the resolution of such default(s) shall govern.

11.01 FEE SCHEDULE AND PERMITTING PROCESS.

1. Application Fees

- a. Prior to processing any Application for a Commercial Solar Energy Facility, the Applicant must submit a certified check to the Menard County Zoning Office for the Application Fee equal to five thousand dollars (\$5000) per megawatt MW of nameplate capacity plus one thousand dollars (\$1000) per additional MW of nameplate capacity, up to a maximum fee of one million dollars (\$1,000,000.00) These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
- b. Should the actual costs to the Menard County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the Menard County within 15 days of receipt of a request from the Menard County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the Menard County.
- c. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the Menard County Board rendering a final decision on the matter, unless any pending litigation, disputes, or negotiations involving Menard County exist regarding the Commercial Solar Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes, or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

2. Building Permit Fees

- a. Prior to the issuance of building permits, the Building Permit Applicant must submit a certified check to the Menard County Zoning Office for a Building Permit Fee equating to eight thousand dollars (\$8000) per megawatt MW of nameplate capacity plus one-thousand dollars (\$1000) per additional MW of nameplate capacity. If the total nameplate capacity is less than 1 MW, the building permit fee shall be reduced pro rata.

3. All Costs to be Paid by Applicant or Owner

In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by Menard County, including but not limited to those costs associated with all offices and departments, boards, and commissions of the Menard County as well as third-party costs incurred by the Menard County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations.

4. Due to the complexity of the project and the information submitted, it shall be reviewed by a committee consisting of one or more representatives from:

- (i) Menard County Departments of Zoning
- (ii) Menard County Planning Commission;
- (iii) Menard County Engineer;
- (iv) Menard County Road Commissioner affected
- (v) Menard County Drainage District Commissioner affected
- (vi) Menard County Emergency Telephone System;
- (vii) Menard County Coordinator;
- (viii) Menard County State's Attorney;
- (ix) Applicable Fire Protection District;

- a. Due to the complexity of the project and the information submitted for review, Menard County may charge the CSECS project applicant, owner and/or operator for the cost of any special analytic or other review needs deemed by the committee to be reasonably necessary and incidental to adequate and timely review.

- b. If the committee determines that all requirements of the ordinance have been met, the zoning administrator shall issue a certificate of compliance. The building permit may be reviewed at the same time.

11.02 VARIATIONS

The Menard County Zoning Office and The Menard County Board of Commissioners may permit variations to the regulations of this ordinance but shall do so only when the granting of such a variation would be in harmony with the ordinance's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or hardships in the way of carrying out the strict letter of the regulations of this ordinance.

12.01 HEARING FACILITATOR

The Menard County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the Menard County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence, and the propriety of any arguments.

The hearing facilitator shall be an attorney licensed to practice in the State of Illinois. The Applicant shall reimburse the Menard County for the fees and costs charged by the facilitator.

13.01 HEARING FACTORS

The Menard County Board may approve a Commercial Solar Energy Facility Special Use Permit application if it finds the evidence complies with state, federal and local law and regulations, and with the standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- a. The establishment, maintenance or operation of the CSECS Project will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The CSECS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
- c. The establishment of the CSECS Project will not impede the normal and orderly development and improvement of the surrounding properties;
- d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
 - f. The proposed CSECS Project is not contrary to the objectives of the current comprehensive plan of the Menard County (if any); and
 - g. The CSECS Project shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Menard County Board.
- 1. Special Use Permit Conditions and Restrictions. The Menard County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the CSECS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.
 - 2. Revocation.
 - a. In any case where a Special Use Permit has been approved for a CSECS Project, the Applicant shall apply for a CSECS Building Permit from the Menard County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a CSECS Building Permit from the Menard County and all other permits required by other government or regulatory agencies prior to construction, and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the Menard County Board the Special Use Permit authorizing the construction and operation of the CSECS Project shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the Menard County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.

- b. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the CSECS Project, or the CSECS ceases to operate for more than twelve (12) consecutive months for any reason.
 - c. Subject to the provisions of Article 10.01(A), a Special Use Permit may be revoked by the Menard County Board if the CSECS Project is not constructed, installed, and/or operated in substantial conformance with the Menard County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.
- 3. Transferability: Owner or CSECS Permittee. The Applicant shall provide written notification to the Menard County Board At least Ninety (90) days prior to any change in ownership of a CSECS Project of any such change in ownership. The phrase "change in ownership of a CSECS Project" includes any kind of assignment, sale, lease, transfer, or other conveyance of ownership or operating control of the Applicant, the CSECS Project, or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the Special Use Permit, the provisions of this Ordinance, and applicable Menard County, state and federal laws.
- 4. Modification. Any modification of a CSECS Project that alters or changes the essential character or operation of the CSECS Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the CSECS Project.

Permit Effective Date: The Special Use Permit shall become effective upon approval of the Ordinance by the Menard County Board.

14.01 INTERPRETATION

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Menard County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Menard County nor conflict with any statutes of the State of Illinois.

15.01 SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

16.01 EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, publication, and approval as required by law.

17.01 APPENDIX

- (1) Agricultural Impact Mitigation Agreement – Construction of a Commercial Solar Energy Facility
- (2) IDOA Decompaction Stds A-B
- (3) IDOA Drain Tile Repairs, Figures 1-2
- (4) Sample Legal Notice