

ORDINANCE NO. 05-2023-5

WHEREAS, the Whiteside County Building and Zoning Administrator, duly filed with the Zoning Hearing Officer, her petition praying that the following amendments be made to the Whiteside County Zoning, Planning and Development Ordinance found in Chapter 39, Article V, Section 39-267 and Section 39-268 of the Whiteside County Code; and

WHEREAS, the Zoning Hearing Officer held the required public hearing on the proposed amendments on April 20, 2023, and has recommended to this Board that the entirety of Chapter 39, Article V, Section 39-267 and Section 39-268 be deleted and said amendments be adopted as follows:

Chapter 39-ZONING, PLANNING AND DEVELOPMENT

ARTICLE V.-SUPPLEMENTAL USE REGULATIONS

Sec. 39-267. Wind power.

(a) *Purpose.*

- (1) This section is designed as such because the enactment of 55 ILCS 5/5-12020 required the County to amend its existing zoning ordinance(s) to comply with the provisions of said statute, and in order to protect public safety and community character, while reasonably accommodating the need for commercial wind energy facilities and complying with State and federal law.

(b) *Application.* This section applies to all commercial wind energy facilities, as those terms are defined by 55 ILCS 5/5-12020 (a).

(c) *Standards.*

- (1) A commercial wind energy facility shall comply with the requirements set forth in 55 ILCS 5/5-12020, including each and every subsection thereof, as may be amended from time to time.
- (2) Test wind towers may be sited without formal Board approval.
- (3) Sound emanating from the wind energy facility shall not exceed those established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901 and 910.
- (4) Any supporting facilities necessary to facilitate the production of energy shall be constructed in conformance with the zoning district regulations in which it is located.
- (5) Vegetative screening may be required to reduce the visual impact of a facility to the neighboring property owners.
- (6) The results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) that are obtained through an EcoCAT (Ecological Compliance Assessment Tool) shall be provided. The facility shall adhere to those recommendations provided in the EcoCAT.
- (7) The results of the U.S. Fish and Wildlife Service's Information for Planning and Consulting environmental review that is consistent with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines shall be provided.
- (8) Facility owner shall demonstrate avoidance of protected lands identified by the Illinois Department of Resources (IDNR) and the Illinois Nature Preserves Commission (INPC).
- (9) The results from consultation with the Illinois Historic Preservation Division to assess potential impacts on state-registered historic sites under the Illinois State Agency Historic Resources Preservation Act shall be provided.
- (10) *Special use permit.* Commercial wind facilities are special uses in all zoning districts.

(d) *Procedure.* When an application is made for siting approval and special use permits for the purpose of constructing or modifying a commercial wind energy facility, the Zoning Hearing Officer and the County Board shall comply with all procedural requirements of 55 ILCS 5/5-12020(c).

- (e) *Private, noncommercial wind energy facilities.* This subsection applies to the siting of private, noncommercial wind energy facilities for primarily on-site energy consumption with a total nameplate generating capacity of 3MW or less.
- (1) These towers require a special use permit when not being placed on a working farm, and are allowed as special uses in any zoning classification.
 - (2) These towers shall be setback 500 feet from any primary structure on any adjacent property. This shall be measured from the nearest point of the foundation of the primary structure to the center of the wind facility foundation. The owner of the primary structure on an adjacent property may waive this setback requirement; but in no case shall a tower be located closer to a primary structure than 1.1 times the tower height. Any setback distance waiver requested by the owner of the primary structure located on adjacent property shall provide a notarized letter requesting said waiver. Any waiver shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
 - (3) These towers shall be setback a minimum distance of 1.1 times the tower height from public road right-of-way, third party transmission lines, and communication towers.
 - (4) These towers shall be setback a minimum distance of 1.1 times the tower height from adjacent property lines. Any setback distance waiver requested by the owner of the adjacent property affected shall provide a notarized letter requesting said waiver. Any waiver shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
 - (5) The distance between any protruding blades utilized on a private wind energy facility and the ground shall be a minimum of 15 feet as measured at the lowest point of the blade tip to grade.
 - (6) *Sale of excess power.* Excess power generated by a private wind energy facility may be sold to an energy company, provided the facility in question is already providing all of the power needed for the private property on which it is located. These towers shall not be constructed solely for the sale of the power generated.
 - (7) *Noise.* The private wind energy facility shall not exceed a noise level of 60 decibels as measured at the closest property line to the tower. The noise level may be exceeded during short-term events such as utility outages and/or severe wind storms.
 - (8) *Structural Drawings.* Building permit applications shall be accompanied by standard drawings of the system structure, including the tower, base, footings, and guy cables certified by an Illinois licensed Structural Engineer. This certification may be supplied by the manufacturer.
 - (9) *FAA Compliance.* Private wind energy facilities shall comply with all applicable FAA regulations, including any necessary approvals for installations less than two miles from an airport.
 - (10) *Utility notification.* Grid-tied wind energy facilities shall be installed to utility company specifications. It is the responsibility of the installer to contact the local utility company for details, regulations and file appropriate applications/documents as this may vary among utility companies. Copies of all applications/documents shall be submitted to the Building and Zoning Office upon acceptance by the utility company to be filed with the wind facility building permit documentation.
 - (11) *Radio and television signals.* The private wind energy facility shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance issue is identified, the owner of the facility shall correct the issue within 90 days of the notification of the interference.
 - (12) *Aesthetics.* The private wind energy facility shall maintain a galvanized neutral finish or be painted a neutral color to blend the facility color to the surrounding environment to minimize adverse visual effects. No private wind energy facility shall have any signage, verbiage, pictures or decorations placed on it at any time other than required warning, equipment and ownership information. No private wind energy facility shall have any flags, streamers, banners, and other decorative items that extend from any part of the facility placed on it at any time.
 - (13) *Decommissioning.* When the facility reaches the end of its useful life and can no longer function properly, the owner of the facility shall remove the facility in its entirety within 120 days of the day the facility last functioned. The owner is solely responsible for the decommissioning of the facility and all costs, financial or otherwise, of facility removal.
 - (14) *Fencing.* The tower shall be enclosed with a fence of a least six feet (6') in height or the base of the tower shall not be climbable for a distance of eight feet (8') measured from grade.
 - (15) *Required safety features.* The private wind energy facility shall have an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the facility is designed and a manually operable method to render the facility inoperable in the event of a structural or mechanical failure of any part of the facility.

- (16) *Facility height.* Facility height shall be measured from grade to the maximum blade tip height and shall be limited as follows:

	A-1, C-1, B-1, B-2, B-3, I-1, I-2	A-R, R-1, R-2, R-3
Acreage	Maximum Height	Maximum Height
0.99 acres or less	50 feet	50 feet
1 to 1.99 acres	65 feet	65 feet
2 to 4.99 acres	80 feet	80 feet
5 acres or more	150 feet	80 feet

- (f) *State and federal compliance.* Nothing in this section is intended to preempt any other applicable state and federal laws and/or regulations.

Sec. 39-268. Solar power.

- (a) *Purpose.*

- (1) This section is designed as such because the enactment of 55 ILCS 5/5-12020 required the County to amend its existing zoning ordinance(s) to comply with the provisions of said statute, and in order to protect public safety and community character, while reasonably accommodating the need for commercial solar energy facilities and complying with State and federal law.

- (b) *Application.* This section applies to all commercial solar energy facilities, as those terms are defined by 55 ILCS 5/5-12020 (a).

- (c) *Standards.*

- (1) A commercial solar energy facility shall comply with the requirements set forth in 55 ILCS 5/5-12020, including each and every subsection thereof, as may be amended from time to time.
- (2) Test solar facilities may be sited without formal Board approval.
- (3) Sound emanating from the solar energy facility shall not exceed those established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901 and 910.
- (4) Any supporting facilities necessary to facilitate the production of energy shall be constructed in conformance with the zoning district regulations in which it is located.
- (5) Vegetative screening may be required to reduce the visual impact of a facility to the neighboring property owners.
- (6) The results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) that are obtained through an EcoCAT (Ecological Compliance Assessment Tool) shall be provided. The facility shall adhere to those recommendations provided in the EcoCAT.
- (7) The results of the U.S. Fish and Wildlife Service's Information for Planning and Consulting environmental review that is consistent with any applicable U.S. Fish and Wildlife Service solar wildlife guidelines that have been subject to public review shall be provided.
- (8) Facility owner shall demonstrate avoidance of protected lands identified by the Illinois Department of Resources (IDNR) and the Illinois Nature Preserves Commission (INPC).
- (9) The results from consultation with the Illinois Historic Preservation Division to assess potential impacts on state-registered historic sites under the Illinois State Agency Historic Resources Preservation Act shall be provided.
- (10) A vegetative ground cover to be maintained for the life of the facility that is consistent with the goals of the Pollinator-Friendly Solar Site Act shall be provided.
- (11) A vegetation management plan utilizing the guidelines as set by the Illinois Department of Natural Resources (IDNR) shall be provided.
- (12) *Special use permit.* Commercial solar facilities are special uses in all zoning districts with the exception of the I-2 Heavy Industrial District. These facilities are a permitted use in the I-2 District, in airport safety zones and at the landfill.

- (d) *Procedure.* When an application is made for siting approval and/or special use permit for the purpose of constructing or modifying a commercial solar energy facility, the Zoning Hearing Officer and the County Board shall comply with all procedural requirements of 55 ILCS 5/5-12020(c).

- (e) *Private, noncommercial solar energy facilities.* This subsection applies to the siting of private, noncommercial solar energy facilities for primarily on-site energy consumption as a permitted accessory use in all zoning districts where structures are allowed, subject to the requirements as set forth below:
- (1) Building or roof-mount solar energy facilities shall not exceed the maximum height allowed in the zoning district in which it is located.
 - (2) Ground-mount solar energy facilities shall not exceed 20 feet in height at maximum tilt.
 - (3) Building or roof-mount solar energy facilities shall not extend beyond any roof line or any exterior perimeter of the structure. Exterior piping for solar hot water facilities shall be allowed to extend beyond the perimeter of the building in the side yard. Solar facilities mounted on the building and serving as an awning shall be considered to be a building integrated facility and shall be regulated as an awning.
 - (4) Ground-mount solar energy facilities shall not extend into the side or rear yard setbacks at minimum tilt. Ground-mount facilities shall meet the setback requirements for the zoning district in which it is located.
 - (5) *FAA Compliance.* The results of a completed solar glare hazard analysis tool (SGHAT) for the airport traffic control tower cab and final approach paths, consistent with policy, FAA Review of Solar Energy Projects on Federally Obligated Airports or most recent version adopted by the FAA shall be provided for any private solar energy facility located within 500 feet of an airport or within the approach zones of an airport.
 - (6) *Reflectors.* All solar energy facilities using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include but are not limited to selective placement of the facility, screening on the north side of the solar array, modifying the orientation of the facility and reducing use of the reflector facility.
 - (7) *Historic building.* Solar energy facilities on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must be consistent with the standards for solar energy facilities on historically designated buildings published by the U.S. Department of the Interior.
 - (8) *Approved solar components.* Electric solar energy facilities components must have a UL listing or approved equivalent and solar hot water facilities must have an SRCC rating.
 - (9) *Restrictions on solar energy facilities.* Consistent with 765 ILCS 165/, no homeowners' agreement, covenant, common interest community or other contract between multiple property owners within a subdivision of the unincorporated county shall prohibit or restrict homeowners from installing solar energy facilities. No energy policy statement enacted by a common interest community shall be more restrictive than the county's solar energy regulations.
 - (10) *Sale of excess power.* Excess power generated by a private solar energy facility may be sold to an energy company, provided the facility in question is already providing all of the power needed for the private property on which it is located. These facilities shall not be constructed solely for the sale of the power generated.
 - (11) *Utility notification.* Grid-tied solar energy facilities shall be installed to utility company specifications. It is the responsibility of the installer to contact the local utility company for details, regulations and file appropriate applications/documents as this may vary among utility companies. Copies of all applications/documents shall be submitted to the Building and Zoning Office upon acceptance by the utility company to be filed with the solar facility building permit documentation.
 - (12) Ground-mount facilities shall be exempt from impervious surface calculations if the soil under the facility is not compacted and maintained in vegetation. Foundations, gravel or compacted soils are considered impervious.
 - (13) *Definitions.*
 - Building-integrated solar energy facilities.* A solar energy facility that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy facilities that are contained within roofing materials, windows, skylights and awnings.
 - Grid-tied solar energy facility.* A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
 - Ground-mount solar facility.* A solar energy facility mounted on a rack or pole that rests or is attached to the ground. Ground-mount facilities can be either accessory or principal uses.
 - Photovoltaic facility.* An active solar energy facility that converts solar energy directly into electricity.

Roof-mount solar facility. A solar energy facility mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount facilities are accessory to the principal use.

Solar facility. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar facility.

Solar energy facility. A device, array of devices or structural design feature for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy. This may include the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting or water heating.

Solar hot water system. A system (also referred to as solar thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar storage. A component of a solar energy facility that is used to store solar generated electricity or heat for later use.


- (f) *State and federal compliance.* Nothing in this section is intended to preempt any other applicable state and federal laws and/or regulations.

NOW, THEREFORE BE IT ORDAINED that the Whiteside County Board concurs with the Zoning Hearing Officer and hereby deletes Chapter 39, Article V, Section 39-267 and Section 39-268 in their entirety and adopts said proposed Zoning, Planning and Development Ordinance amendments, as part of Chapter 39, Article V, Section 39-267 and Section 39-268 of the Whiteside County Code and;

BE IT FURTHER ORDAINED that the effective date is immediately upon adoption.

Passed and Adopted this 16th day of May, 2023, by the County Board of Whiteside County.

Attest: 
Dana Nelson, County Clerk


Martin Koster, Chairman