

**ARTICLE VIII-B Commercial Solar Energy Facilities and
Battery Energy Storage Systems**

Sec. 56-645. Definitions.

Battery Energy Storage System (BESS) -- One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

Commercial solar energy facility— 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.

Facility Owner-- (i) a person with a direct ownership interest in a commercial solar energy facility regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

Nonparticipating property—real property that is not participating property.

Nonparticipating residence—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 county.

Occupied community building—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 county: a school, place of worship, day care facility, public library, or community center.

Participating property—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—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 county.

Pollinator-friendly – shall be as defined by Illinois statute or regulation including 525 ILCS 55/ and any rules or regulations promulgated by the Illinois Department of Agriculture or other regulatory agency with authority.

Road Use Agreement – a written contractual agreement(s) with local governmental authorities having jurisdiction over the roads and routes of travel necessary for the deliver of materials or equipment to the facility.

Supporting facilities—the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial solar energy facility.

Sec. 56-645.1 Prohibitions and Limitations

No BESS governed by this Ordinance shall be transported, constructed, erected, installed, located or operated within Livingston County, unless it is connected to a commercial solar energy facility or commercial wind energy facility, and:

1. A Special Use Permit Application approval has been granted by the County Board and has been issued a Building Permit by the Livingston County Zoning Office; and
2. Road Use Agreement(s) and Decommissioning Agreement(s) have been entered into for each applicable governmental agency for the BESS.

For for the purposes of this ordinance, a BESS incorporated as part of the original design of a commercial solar energy facility or commercial wind energy facility is covered by the Special Use Permit and Building Permit for the commercial solar energy facility or commercial wind energy facility. A BESS proposed to be connected to an existing commercial solar energy facility or an existing commercial wind energy facility is required to seek and obtain a separate Special Use Permit and Building permit prior to the transportation, construction, erection, installation, location or operation of the BESS . No BESS is allowed in a commercial solar energy facility or commercial wind energy facility unless it is part of the design of the facility included in the Special Use Permit Application, or obtains a separate Special Use Permit and Building Permit pursuant to the terms of this Ordinance. A BESS seeking a Special Use Application to connect to an existing commercial solar energy facility or existing commercial wind energy facility must comply with all aspects of this Ordinance, unless expressly stated otherwise.

BESS are only allowed on parcels zoned by Livingston County as “agricultural” or “industrial” and for which a Special Use Permit and Building Permit has been obtained.

At least 90 days prior to filing its Special Use Permit Application with the County, the Applicant must hold an in-person meeting at a location within the township of the planned commercial solar energy facility or BESS, or if no sufficient location is available within in the Township, a location in the County to inform the public of the project. In its Special Use Application, Applicant shall provide sufficient documentation showing that a public meeting has been held and that all landowners and residents within 1.5 miles of the project footprint and within the project footprint have been notified of said meeting.

Any existing project which seeks to increase the nameplate capacity of the project, the footprint of the Projects, and/or seeks to change the types of solar panels or batteries utilized, must obtain an amended or new Special Use Permit, applicable Building Permits, and Decommissioning and Road Use Agreements.

This Ordinance does not apply to battery storage utilized for on-site power, such as battery energy storage located on a single residential parcel and utilized solely by that residence for power.

Sec. 56-646. Design standards for Commercial Solar Energy Facilities and BESS.

- (a) *Foundations.* The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels and/or BESS is within accepted professional standards, given local soil and climate conditions.
- (b) *Other standards and codes.* All commercial solar energy facilities and/or BESS shall be in compliance with any applicant local, state and federal regulatory standards, and the National Electric Code as amended.
- (c) *Power and communication lines.* Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings or to a BESS shall be buried underground. Exemptions or variances may be granted in instances where shallow bedrock, watercourses, or other elements of natural landscape interfere with the ability to bury lines.
- (d) *Minimum lot size.* No commercial solar energy facility or BESS shall be erected on any lot less than 20 acres in

size.

- (e) *Height.* No component of a BESS or Bess buildings may exceed 20 feet above ground, and no solar panel can have a height of more than 20 feet above ground when the solar energy facility's arrays are at full tilt. Excluded from this height requirement, however, are electric transmission lines and utility poles.
- (f) *Setbacks.* The regulations regarding the site of a commercial solar energy facility, with setback distances measured from the nearest edge of any component of the facility, are as follows:
 - I. 150 feet from the nearest point on the outside wall of the structure, measured from the nearest edge of any component of the facility from occupied community building and dwellings on nonparticipating properties;
 - II. No setback distances from boundary lines of participating property;
 - III. 50 feet from the nearest edge of a public road rights-of-way; and
 - IV. 50 feet to the nearest point on the property line of nonparticipating property.

Any commercial solar energy facility or commercial wind energy facility that incorporates a BESS, shall abide by the following setbacks unless such setbacks would preclude the development of a commercial solar energy facility, then the setback provisions shall be minimally adjusted as to allow for the development of the commercial solar energy facility:

- I. 200 feet from the property line right-of-way;
 - II. All components, except the interconnection point, installed as part of the BESS shall be setback at least 500 hundred feet from the nearest edge of any component of the BESS from any occupied community building and dwellings on nonparticipating properties;
 - III. If a BESS is enclosed within the project area of commercial solar energy facility, no further fencing is required. If a BESS is not enclosed within a commercial solar energy facility, the BESS shall be enclosed by a 10 foot high fence with a locking gate to prevent unauthorized access unless housed within a dedicated-use building.
- (g) *Screening and fencing.* Systems equipment and structures shall be fully enclosed and secured by a fence with a minimum height of six feet and not more than 25 feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. The entirety of the Commercial Solar Energy Facility and BESS shall be enclosed with a living buffer of coniferous, evergreen, and/or other trees and plants that provide a year-around visual screen, must be planted and maintained within 6 months following the commercial operation date and will meet or exceed the height of the solar panels and all facilities equipment, including fencing upon reaching maturity. At planting, the living buffer must be at least 6 feet in height. Additionally, the Applicant/ Owner must comply with any screening requirements requested by the zoning administrator and consistent with state law and this ordinance. An alternative buffer may also be considered. Earth berms or other topographical features and existing wooded areas may be accepted in lieu or in combination of the above requirements, if they conceal the use from public view and are maintained.

Any BESS as part of a commercial wind energy facility shall comply with the above living buffer requirements.

- (h) *Lighting.* If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
- (i) *Noise.* Noise levels must comply with the sound limitations set by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910. Noise levels at non-participating properties shall be tested upon request of the Zoning Administrator. The tested results shall be provided to the Zoning Administrator.

The applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the noise requirements of this siting section and provide

contour maps and at intervals of not greater than five feet. Sound pressure levels shall be measured using the measurement procedures set forth in the IPCB regulations, except that sound pressure levels for purposes of establishing a violation of this section may be measured at any point on residentially used property and for agricultural property not more than 150 feet from any portion of the edge of the primary structure. No portion of the property shall exceed the noise levels set by the IPCB. To the extent any property has multiple uses or classifications, all the land utilized for a particular use must not exceed the IPCB noise regulations for the classification of use. The owner of the receiving land may waive compliance with local measuring points requirements pertaining to the IPCB regulations for the owner's property.

The commercial solar energy facility project and/or BESS shall maintain compliance with the applicable IPCB regulations throughout the entire operational period of the commercial solar energy facility and/or BESS project. Upon complaint, the County shall hire a qualified noise acoustician to conduct testing for a thirty-day period at the ten most at risk residential property lines and ten most at risk primary structures of any agricultural property as modeled in the application to ensure ongoing compliance with the IPCB noise regulations. The cost to conduct such testing shall be borne by the Facility Owner. If the Facility Owner does not pay within thirty days of being provided an invoice for these costs, the remedies provisions of this ordinance shall apply. If at any time throughout the life of the commercial solar energy facility project, the noise levels are found to not be in compliance with this section, the applicant or facility owner will immediately shut off the commercial solar energy facility and/or BESS until the County approves a solution after a hearing at the ZBA.

- j) *Installation and design.* Individual arrays/solar panels shall be designed and located in order to prevent glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.
- (k) *Inspections.* Each commercial energy facility and/or BESS shall be required to have the facility inspected by an independent certified inspector approved by the Livingston County Zoning Administrator at the completion of the construction of the project, any increase in the megawatt capacity of the project, or any change in the type of batteries being utilized. This inspection is to verify compliance with the zoning regulations including compliance with the National Electric Code. Thereafter, the facility shall be inspected annually for three years following construction to verify continued compliance with the zoning regulations. Thereafter inspections shall be performed every three years (triennially), unless otherwise determined by the Livingston County Zoning Administrator. Additional inspections necessitated by complaints or otherwise shall not replace annual or triennial inspection requirements. All inspections shall be at the cost of the owner of the commercial solar energy facility. Upon completion of the inspections a report of the inspections shall be provided to the County without charge to the County.

At the time of application for any building permit related to the project, at least annually thereafter, the Owner or Operator of the CWF, CSEF or BESS shall provide to the county a list of all federal and state laws and regulation by name and citation which specifically impact the project. Owner and Operator shall also provide a certification with a sworn statement indicating compliance with the aforesaid statutes and regulations.

- (l) *Signage.* An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the commercial solar energy facility project. The sign at the entrance to the facility shall include a 24-hour emergency contact number.
- (m) *Annual Report.* The Applicant must submit, on an annual basis on the anniversary date of the Special Use Permit application, an operation and maintenance report to the County. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the facility and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the facility and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the Commercial Solar Energy Facility and/or BESS. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to all appropriate remedies.

- (n) *Natural Resources*. The commercial solar energy facility owner and/or BESS owner shall provide at the public hearing on the special use permit application:
- (1) The results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool; and
 - (2) The results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool.

The commercial solar energy facility and/or BESS must adhere to the recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report under 17 Ill. Admin. Code Part 1075.

- (1) A commercial solar energy facility and/or BESS owner must Demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Natural Preserve Commission; or
- (2) Consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

The facility owner must provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

At least every thirty-six months, the County shall hire a qualified wildlife expert to conduct a study to determine whether the commercial solar energy facility and/or BESS is in compliance with the Illinois Department of Natural Resources' recommendations in the form of an EcoCAT natural resource review report. The cost to conduct such testing shall be borne by the Facility Owner. If the Facility Owner does not pay within thirty days of being provided an invoice for these costs, the remedies provisions of this ordinance shall apply. The commercial solar energy facility and/or BESS shall at all times comply with and adhere to the recommendations provided by the Illinois State Historic Preservation Office. If at any time throughout the life of the commercial solar energy facility project and/or BESS, the project is found to not be in compliance with the IDNR recommendations or the Illinois State Historic Preservation Office, the applicant or facility owner will immediately shut down the commercial solar energy facility and/or BESS to ensure compliance with these recommendations until a solution to the violations is found and approved by the county after a hearing at the ZBA.

- (o) *Biodiversity*. All commercial solar energy facilities must obtain and maintain the designation of being a Pollinator Friendly Solar Site.
- (1) Pollinator-friendly habitat must be designed, installed, and maintained under and around the solar panels in all areas within the perimeter fencing.
 - (2) Pollinator-friendly habitat will be installed as a buffer outside of the perimeter fencing of the commercial solar energy facility. Buffer width will be a minimum of 36' measured from the perimeter fencing.
 - (3) Pollinator-friendly habitat will be installed on properly prepared soils, and Facility Owners will employ Integrated Vegetation Management and/or Conservation Grazing best practices to maintain and maximize operational savings.
 - (4) Pollinator friendly habitat will be developed, implemented, and maintained in accordance with IDNR's Solar Site Pollinator Scorecard Guidelines and will consist of only native grasses, forbs, and legume species. Native seed mixes must be approved by the Livingston County Soil and Water office prior to implementation.
 - (5) The Facility Owner must complete the [Illinois Planned Habitat on Solar Sites Scorecard](#) with a minimum score of 85 to achieve preliminary recognition as a "Pollinator Friendly Solar Site". This preliminary recognition is good for 3 years and must be recertified at least once every 5 years thereafter. The county shall be provided documentation within the time periods set forth herein showing compliance.

(6) Noxious weeds will be controlled in accordance with all state and local laws, regulations and ordinances.

(7) Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

(8) Areas within twenty (20) feet on each side of a BESS shall be cleared of all combustible material, including vegetation. All BESS systems shall be set on a concrete pad with a concrete or gravel buffer surrounding the BESS on all sides and extending at least 20 feet on all sides. No vegetation shall be allowed within the twenty (20) foot buffer area.

The facility owner must obtain updated reviews required in this Section upon request by the Zoning Administrator.

(p) *Drain Tile Mapping.* Prior to the issuance of any building permits, the Facility Owner must provide the location of any subsurface drainage tiles to the County.

(q) *BESS Buildings.* No building housing any batteries utilized for energy storage shall also be occupied with permanent office space.

(r) *Hazardous Materials.* During all times that the commercial solar energy facility and/or BESS is operational, the Applicant, Owner or Operator shall keep on-site a listing of all hazardous materials and the corresponding Material Safety Data Sheet in a location accessible by emergency responders. Additionally, such information shall be sent to the Livingston County Zoning Office and all emergency response entities. Hazardous materials shall include any solid, liquid or gas that is listed as hazardous or toxic by any United States regulatory body or any Illinois regulatory body.

Sec. 56-647. Application Requirements.

All applications shall be submitted with 10 paper copies and 1 electronic copy. The following information shall be provided as part of the application for a special use permit:

- (1) A site plan with existing conditions showing the following:
 - a. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of adjacent property owners and current use of those properties.
 - b. Existing public and private roads, showing widths of the roads and any associated easements.
 - c. Location and size of any abandoned wells, sewage treatments systems.
 - d. Existing buildings and any impervious surfaces.
 - e. A contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.
 - f. Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas etc.)
 - g. Waterways, watercourses, lakes and public water wetlands.
 - h. Any delineated wetland boundaries.
 - i. A copy of the current FEMA FIRM map that shows the subject property. And, the 100-year flood elevation and any regulated flood protection elevation, if available.
 - j. Floodway, flood fringe and/or general floodplain district boundary, if applicable and not provided on the copy of the current FEMA FIRM map.
 - k. Mapped soils according to the Livingston County Soil Survey.
 - l. Surface water drainage patterns.

- m. Two (2) legal descriptions shall be submitted: the first will be of the subject property(s) on which the facility will be located, which will be used for purposes of the public notice; and, the second will be of the specific areas to be occupied by the commercial solar energy facility and/or BESS. Under no circumstances shall a granted Special Use Permit be allowed to expand beyond the area of the designated area to be occupied by the commercial solar energy facility and/or BESS. In addition to the legal descriptions, the Applicant must also submit map depicting the two areas.
- (2) Site plan of proposed conditions:
 - a. Location and spacing of solar panels.
 - b. Location of access roads.
 - c. Planned location of underground or overhead electric lines connecting the commercial solar energy facility to a building, substation or other electric load.
 - d. New electrical equipment other than at the existing building or substation that is to be the connection point for the commercial solar energy facility.
 - e. Sketch elevation of the premises accurately depicting proposed solar energy conversion system, BESS, and its relationship to structure on adjacent land.
 - f. Weed/grass control—Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the commercial solar energy facility must maintain the fence and adhere to the weed/grass control plan. If the operating company does not there can be a fine of \$500.00 per week if the fence is not secure or the weed/grass control plan is not followed, as per section 56-940 of these regulations.
 - (3) Manufacturer's specifications(including safety and fire suppression recommendations) and recommended installation methods for all major equipment, including solar panels, BESS, safety equipment, fire suppression systems, and mounting systems and foundations for poles or racks.
 - (4) The number of panels to be installed.
 - (5) A description of the method of connecting the array and BESS, to a building or substation.
 - (6) At the time of applying for the special use application a written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. Then pre-operation of the project, a copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary should be provided to the county.
 - (7) A decommission agreement shall be required to ensure that facilities are properly removed after their useful life. No building permits will be issued prior to the execution of an approved decommissioning agreement with the County. This agreement and financial assurances in benefit to the County must be compliant with the Department of Agriculture's standard solar agricultural impact mitigation agreement, and 55 ILCS 5/5-12020.

All BESS integrated into a commercial solar energy facility or commercial wind energy facility shall require a separate Decommissioning Plan, Decommissioning Agreement and Decommissioning Financial Assurance. No building permits will be issued prior the execution of an approved decommissioning agreement and posting of financial assurance(s). All Decommissioning Plans and Agreements must certify compliance with all state and federal laws and regulations, and provide a listing by name and citation of all applicable statutes and regulations.

An update to this decommissioning plan should be submitted to the county every three years. In addition, any decommissioning plans signed by the party responsible for decommissioning and the landowner (if different) shall be submitted with the application.

The county holds the right to require additional information as the county deems necessary to be part of the review of this plan.

Sec. 56-647.1 Road Use Agreement.

The County may require as a condition of approval a Road Use Agreement and financial assurances to be entered into between the facility owner and County. A Road Use Agreement(s) will be required for a BESS incorporated within in a commercial solar energy facility or a commercial wind energy facility. If an applicant applies for a Special Use Permit for a BESS to be incorporated or connected in any way to an commercial solar energy facility or commercial wind energy facility which has already applied for a Special Use Permit with a design which does not incorporate a BESS, the County will require a separate Road Use Agreement.

Sec. 56-648. Fees.

a. Special Use Permit Application Fees

- i. Prior to processing any Special Use Permit Application for a commercial solar energy facility, the applicant must submit a certified check to Livingston County for the Special Use Permit Application Fee equal to \$5,000 per megawatt (mW) of proposed nameplate capacity (including storage capacity), up to a maximum fee of \$250,000. These funds shall be placed in an FDIC insured money-market account and will be used to cover the county's cost incurred in processing the Special Use Permit Application.
- ii. Should the actual costs to the County exceed the submitted Special Use Permit Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on a Special Use Permit Application shall be conducted nor final decisions rendered on a Special Use Permit Application if there are Special Use Permit Application Fees outstanding to the County.
- iii. Any unused amounts of the Special Use of Permit Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the 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 Special Use Permit Application Fee be applied toward the Building Permit Fees for the Project.

b. Building Permit Fees

- i. Prior to the issuance of building permits the Building Permit Applicant must deposit a Building Permit Fee equating to \$10,000.00 per megawatt (mW) of nameplate capacity (including storage capacity). If the project is less than 1 mW in nameplate capacity, the building permit fee is \$10.00 per kilowatt (kW).

c. All Costs Paid by Applicant or Facility Owner

- i. In addition to all fees noted above, the Applicant or Facility Owner shall pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County, or third parties performing work on behalf of the County. This includes, but is not limited to, the direct or indirect costs associated with the permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations involving the County.

Sec. 56-649. Registration and Permit Requirements for Solicitation of Land Agreements.

Any person intending to solicit a landowner in person for the lease, purchase or use of property for a portion of Commercial Solar Energy Facility, Commercial Wind Energy Facility, or BESS shall fill out an application with the Livingston County Sheriff's Office prior to contacting any property owner or owner's representative in person regarding said lease, purchase or use of said property. The processing fee for the application shall be \$100.00 per year for each person intending to solicit for said agreements.

Prior to receiving a permit to solicit in person, an individual must submit to a criminal background check.

Prior to receiving a permit allowing in person solicitation of landowners, the applicant must pay a \$1,000.00 fee for the permit. Said permit will be valid for 1 calendar year. Permits are not transferrable to any other person or entity on whose behalf the permittee may be soliciting.

Sec. 56-650. Hearing Facilitator.

The county may unilaterally engage the services of a hearing facilitator not affiliated with any pro solar or anti solar group to preside over any required hearings resulting from the siting approval application. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. Upon conclusion of the evidence and final arguments, the board will prepare and submit "findings of fact" and a final recommendation to the county board including special use conditions if applicable.

The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois, jointly selected by the state's attorney (or his designee) and the county zoning administrator and appointed by the chairman of the county board with the consent of the county board. The applicant shall reimburse the county for the fees and costs charged by the facilitator.

Sec. 56-651. Factors for Consideration.

The County Board may approve a Commercial Solar Energy Facility and/or BESS Special Use Permit application, if it finds the evidence complies with state and federal 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 Commercial Solar Energy Facility and/or BESS will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The Commercial Solar Energy Facility and/or BESS 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 Commercial Solar Energy Facility and/or BESS 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 Commercial Solar Energy Facility and/or BESS is not contrary to the objectives of the current comprehensive plan of the County (if any); and
- g. The Commercial Solar Energy Facility and/or BESS shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located except as such regulations may, in each

instance, be modified pursuant to the recommendations of and approved by the County Board.

Sec. 56-652. Liability Insurance.

The facility owner of the commercial solar energy facility and/or BESS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10,000,000.00 per occurrence and \$40,000,000.00 in the aggregate, with an annual certificate of insurance being provided to the county regional planning commission office, with the county being added as an additional insured, with the designation of primary and noncontributory.

The applicant or facility owner shall promptly increase such liability insurance if such amount is increased in this Ordinance and the applicant or facility owner is notified in writing of same by the county. The applicant shall provide evidence of such increased insurance to the zoning administrator.

Insurance coverage shall be maintained without interruption from the date of application for any building permit related to the commercial solar energy facility and/or BESS through the decommissioning of all solar equipment and BESS. Certificates of insurance acceptable to the county and in compliance with this section shall be filed with the county prior to the commencement of any work on the commercial solar energy facility and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days written notice has been given to the county.

Applicant and Facility Owner shall also, to the fullest extent permitted by law, indemnify, and hold the county, its employees, board members and agents harmless for any action due to or arising out of the construction, maintenance, decommissioning, deconstruction and/or operation of the commercial solar energy facility, including the payment of any attorney's fees and costs arising out of any action due to or arising out of the construction, maintenance and/or operation of the commercial solar energy facility.

Sec. 56-653. Remedies.

- (a) The applicant's or facility owner's failure to materially comply with any of the provisions of this article shall constitute a default under this article.
- (b) Prior to implementation of the existing county procedures for the resolution of such defaults, the appropriate county body shall first provide written notice to the facility owner, setting forth the alleged defaults. Such written notice shall provide the facility owner a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged defaults.
- (c) If the county determines, in its sole discretion, that the parties cannot resolve the alleged defaults within the 60-day good faith negotiation period, the county shall have the right to take the actions allowed in section 56-940 of the Livingston County Code, or take any other action permitted by law or in equity.

Sec. 56-654. Severability.

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

*** END OF SOLAR ORDINANCE ***