

RESOLUTION 61-23

ADOPTION OF LAFAYETTE COUNTY
CHAPTER 16 SOLAR ENERGY SYSTEMS ORDINANCE

WHEREAS, authority is granted to Lafayette County to establish ordinances for solar energy systems by Chapters 59.69, 59.694, 66.0401, 66.0403, and 196.491 of the Wisconsin Statutes; and

WHEREAS, the Planning & Zoning Committee has determined that there is a need for an ordinance for local regulation on certain solar energy systems; and,

WHEREAS, having such an ordinance would provide guidance to the Planning & Zoning Committee and the Land Conservation and Planning & Zoning Department Manager on regulating solar energy systems; and,

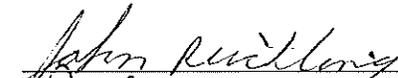
WHEREAS, the new ordinance shall only apply to Solar Energy Systems which are designed for nominal operation at a capacity of less than 100 megawatts; and

WHEREAS, at the February 6, 2024 meeting of the Planning & Zoning Committee, it was voted to approve the attached Chapter 16 Solar Energy Systems Ordinance.

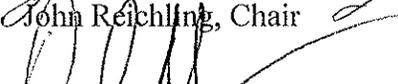
NOW, THEREFORE, BE IT RESOLVED, that the Lafayette County Board of Supervisors, at the recommendation of the Planning & Zoning Committee, do enacts Chapter 16 Energy Systems Ordinance for Lafayette County and is attached as Exhibit A.

Respectfully submitted

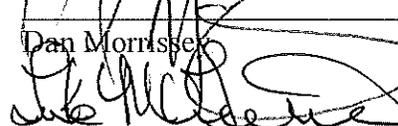
PLANNING & ZONING COMMITTEE



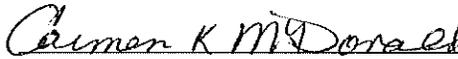
John Reichling, Chair



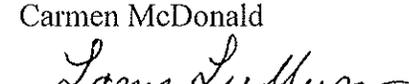
Dan Morrissey



Luke McGuire



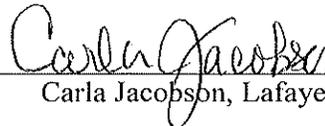
Carmen McDonald



Larry Ludlum

LEGAL NOTE: Within County Board Authority
FISCAL NOTE: The fiscal impact could not be determined. Any revenue and/or costs associated with this ordinance in the future will be included in the Planning & Zoning Department budget.

I, Carla Jacobson, Clerk of the County of Lafayette, State of Wisconsin, do certify that the Lafayette County Board of Supervisors at a meeting held on March 19, 2024 adopted this resolution.



Carla Jacobson, Lafayette County Clerk

Chapter 16

SOLAR ENERGY SYSTEMS

Date Approved: 3/19/2024

Resolution: 61-23

1.1 Introduction

A. Statutory Authority

1. This article is adopted pursuant to authority granted by Wis. Stats. §§ 59.69, 59.694, 66.0401, 66.0403 and 196.491
2. Conflict of Laws: In the event of litigation involving this chapter, the laws of Wisconsin shall govern.

B. Title

This ordinance shall be known as, referred to, and may be cited as “Lafayette County Solar Energy Systems Ordinance” and is hereafter known as the Ordinance.

C. Purpose and Intent

The purpose of this Ordinance is to adopt and incorporate the requirements and standards of Wis Stats., 66.0401 and 66.0403 to regulate Solar Energy Systems (hereinafter referred to as “SES”) for the production of electricity and/or conversion of energy for uses on-site as well as those systems which produce electricity for off-site use and distribution. The regulations of this Ordinance have been established to ensure SES are sited, constructed, maintained, operated, and decommissioned in a manner that maximizes utilization of Lafayette County’s solar energy resources, while also balancing the need for clean renewable energy and protecting the public health, safety and welfare of the community.

This Ordinance only applies to SES which are designed for nominal operation at a capacity of less than 100 megawatts.

D. Applicability

The permitting and other requirements in this Ordinance apply to all the unincorporated areas of Lafayette County.

E. Abrogation and Greater Restrictions

This chapter is not intended to repeal, abrogate, or impair any existing chapters, rules, restrictions or regulations; however, where this chapter imposes greater restrictions, this chapter shall prevail.

F. Interpretation

Provisions of this chapter shall be liberally construed and shall not be deemed a limitation or repeal of any other powers granted by the Wis. Stats. Or Wis. Admin. Codes. As unforeseen circumstances arise that are not specifically covered under this chapter, the basic principles and purpose of this chapter shall guide its interpretations and application.

G. Severability

Each Section, paragraph, sentence, clause, word and provision of this Ordinance is severable and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part there of other than the portion affected by such decision.

1.2 Definitions

A. For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

1. *Collector use period.* 9 a.m. to 3 p.m. standard time daily.
2. *Committee.* The Lafayette County Planning & Zoning Committee.
3. *Manager.* The Lafayette County Land Conservation and Planning & Zoning Department Manager.
4. *Photovoltaic system.* A manmade solar energy system that converts solar energy directly into electricity.
5. *Solar collector.* A manmade device which is part of a solar energy system, providing the surface on which sunlight energy is collected.
6. *Solar energy.* Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
7. *Solar energy system.* A manmade system that transforms solar energy into another form of energy or transfers heat from a solar collector to another medium using mechanical, electrical, or chemical means.
8. *Solar hot water system.* A type of solar energy system 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.

1.3 Performance standards

A. A solar energy system shall be permitted in all upland zoning classifications where buildings are permitted. If the system fails to meet the following standards, a conditional use review and approval in accordance with Section 4 of Chapter 6-1 shall be required.

1. **Electrical:** Electric solar system components and batteries must be in compliance with applicable electrical codes.
2. **Glare and light:** Collector surfaces shall minimize glare and reflected light.
3. **Safety:** The solar system must be anchored or secured in accordance with applicable building codes.
4. **Ground mounted/pole mounted solar systems** that do not exceed 12.5 kilowatt in rated capacity total for a parcel, are no more than 21 feet and height, and meet the total accessory structure limitations provided within Chapter 6-1 may be exempt from the conditional use process, but are required to obtain a zoning permit.

5. Building-mounted solar systems shall be exempt from the conditional use process and zoning permit process outlined in Chapter 6-1 provided the solar system does not extend more than 18 inches from the original exterior perimeter of the permitted building on which the system is mounted or built. Zoning permits may be obtained to extend the structure beyond 18 inches provided all setback requirements are met. Furthermore, if the solar system is located on a principal structure, the structure is at least fifteen feet from all property lines and if located on an accessory structure, the structure is at least ten feet from all property lines.

1.4 Application of Ordinance (Compliance & Permits)

A. Compliance

No solar energy system, land, or water shall hereafter be used and no solar energy system or part thereof shall be constructed, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except as specifically, or by necessary implication, authorized by this Ordinance. Conditional uses are allowed only with a permit granted by the Committee upon finding that the specified conditions exist.

B. Uses Requiring a Zoning Permit

No solar energy system shall be used, erected, moved, placed, altered, or enlarged, unless exempted by this Ordinance, until after issuance of a zoning permit.

1. A zoning permit shall be granted or denied in writing by the Manager or designee within thirty days of receiving an application. If a zoning permit is not granted or denied within thirty days, failure to review does not grant approval of said zoning permit.
2. If the application is approved, the Manager shall return one copy of the drawing with an approved copy of the zoning permit and retain the other copy with the original application.
3. If the application is denied, the Manager shall notify the applicant in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Manager's decision to the Board of Adjustment as provided in Chapter 6-1 Lafayette County Comprehensive Zoning Ordinance.
4. The zoning permit card shall be conspicuously posted on the premises and visible to the public at all times until construction or installation of the system is complete.
5. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

C. Uses Not Requiring a Zoning Permit

Any work not requiring a zoning permit shall comply with the applicable setback, height, and other requirements of this Ordinance. A zoning permit shall not be required in any of the following instances:

1. A solar energy system that does not extend more than 18 inches from the original exterior perimeter of a permitted building on which the system is mounted or built.

D. Zoning Permit Application

A person may submit a permit application to the Manager for a solar energy system. The application shall be on a form provided by the County and shall include the following:

1. Name, address, and telephone number of the owner of the property and, when applicable, the architect, professional engineer, and/or contractor.
2. Legal description and address of the subject site.

3. The application shall also be accompanied by two copies of a drawing that shows the proposed height, location, and distance of the system from the property lines of the parcel on which it is located.

4. The Manager shall issue a zoning permit for a solar energy system if the application materials show that the proposed system location meets the requirements of this article and of the conditional use permit issued by the Committee.

1.5 Conditional Use Permit.

A. Permit Application

A person may submit an application to the Manager for a conditional use permit for a solar energy system. The procedures shall be in accordance with Chapter 6-1 of the Lafayette County Comprehensive Zoning Ordinance. The Manager shall review the application materials for completeness and may request that the applicant provide additional information. When the Manager determines that the application is complete, the Manager shall forward it to the Committee.

B. Setbacks

1. All setback measurements shall be measured from the outermost edges of all new and altered solar energy systems.

2. Any new or altered solar energy systems shall not be located within 63 feet from the centerline of any township road or recorded access easement, 75 feet from the centerline of any county highway and 110 feet from the centerline of any state highway.

3. All solar energy systems that require conditional use approval shall be located at least 100 feet from all property lines and 150 feet from the ordinary high-water mark. The Committee may modify the 100-foot setback from side and rear property lines shared by parcels supporting the same solar energy system.

4. Any new solar energy system shall not be located within 500 feet of any adjacent habitable structure existing at the time of application that is not owned by the applicant unless the following is done:

a) An agreement provided by the Manager is signed by the applicant and any person(s) who own a habitable structure that is not the applicant within less than 500 feet. Once the agreement is signed, it shall be recorded with the Lafayette County Register of Deeds. Upon recording, this agreement shall be binding upon the property owner(s), their heirs or assignees and shall run with the land until the solar energy system is properly abandoned in accordance with Section 1.6 of the Ordinance or the habitable structure is demolished.

5. Any solar energy system being altered shall not be located within 500 feet of any adjacent habitable structure existing at the time of application that is not owned by the applicant unless the following is done:

a) An agreement provided by the Manager is signed by the applicant and any person(s) who own a habitable structure that is not the applicant within less than 500 feet. Once the agreement is signed, it shall be recorded with the Lafayette County Register of Deeds. Upon recording, this agreement shall be binding upon the property owner(s), their heirs or assignees and shall run with the land until the solar energy system is properly abandoned in accordance with Section 1.6 of the Ordinance or the habitable structure is demolished.

C. Public Hearings

Hearings on applications for conditional use permits shall be by the Committee no later than 60 days after receiving a completed application. A Class 2 notice shall be published in the official newspaper of the County prior to the meeting. Written notice shall be sent by the Manager to all interested persons at least ten days prior to the hearing. In addition, a written Shoreland notice shall be sent by the Manager to the DNR at least ten days prior to the hearing, if necessary.

D. Conditions

The Committee shall grant a conditional use permit if it determines that the requirements of this article are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the County. The Committee may include conditions in the permit if those conditions preserve or protect the public health and safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency. The Committee may consider the following when setting conditions:

1. Proposed ingress and egress.
2. Proximity to transmission lines to link the system to the electric power grid.
3. Number and their location.
4. Nature of land use on adjacent and nearby properties.
5. Location systems in the surrounding area.
6. Surrounding topography.
7. Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
8. Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
9. Impact on the orderly development.
10. Proximity to public and private roads.
11. Recommendation of the Town Board for each town in which a solar energy system is located.
12. Any other factors that are relevant to the proposed system.

E. The Committee decision, the reason for its decision, and any conditions shall be recorded in the minutes. The Committee may authorize the Manager to issue a conditional use permit or inform the applicant in writing the conditional use permit has been denied.

F. The Committee decision may be appealed to the Circuit Court via certiorari. Appeals shall be commenced seeking the remedy available by certiorari within 30 days after the filing date of the decision by the Committee.

1.6 Abandonment and Decommissioning.

A schedule with details for abandonment and decommission of a solar energy system may be established during the conditional use process. Upon termination of solar rights, in the absence of an approved schedule, and/or after a solar system is no longer in operation, the owner shall have 90 days to remove the system and restore the site unless weather prohibits such efforts.

A. Procedure

1. The owner shall remove all solar energy system and outdoor storage;
2. The owner shall remove all hazardous material from the property and dispose of the hazardous material in accordance with Federal and State law.

3. If the owner fails to remove a solar energy system and reclaim the site, the County may remove or cause the removal of the solar system and the reclamation of the site. The County may recover the cost of removal and reclamation from any financial assurance provided by the owner. Any removal or reclamation cost incurred by the County that is not recovered from the owner shall become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.

1.7 Fees.

A. All applications shall include a fee in accordance with the Land Conservation and Planning & Zoning Fee Schedule under the following conditions:

1. Fee schedule shall be annually reviewed by the Committee.
2. Any proposed increase or decrease shall be at the discretion of the Committee.

B. Any fee shall be payable upon submission of an application or After-The-Fact Permit.

1.8 Expiration.

A permit issued pursuant to this article expires if the solar energy system is not installed and functioning within two years from the date the permit is issued.

1.9 Compliance Enforcement and Penalties

It shall be the duty of the Lafayette County Planning & Zoning Manager and their designee to investigate all complaints, give notice of any violations, and otherwise enforce the provisions of this Ordinance. Nothing in this Ordinance shall preclude Lafayette County from initiating any appropriate action to prevent, or remove a violation of any provision of this Ordinance. The Lafayette County Corporation Counsel shall expeditiously prosecute violations of this Ordinance.

A. Violation Enforcement

Any property owner, their agent, contractor, or responsible party who falls to comply with the provisions of this Ordinance, the Wisconsin Statute(s), and/or Administrative Code(s) applicable to this Ordinance shall hereafter be deemed in violation of this ordinance and a "Violator" as defined herein.

1. The Lafayette County Planning & Zoning Manager, or designee, upon reasonable cause, or question as to proper compliance, may revoke, or suspend any permit governed by this Ordinance and issue directives and/or an Order for Correction for failure to meet the terms of an issued Conditional Use or Zoning Permit, or any other violation of this Ordinance.
2. Any person issued an Order for Correction or letter notice by the Lafayette County Planning & Zoning Manager, or designee in accordance with this Ordinance who resists enforcement, refuses to comply, or avoids violation correction, shall be subject to fines, penalties, and prosecuted by Corporation Counsel pursuant to this section.
3. Construction, installation, maintenance, modifications, operations, and any other applicable works in progress found in violation of this Ordinance, shall cease upon issuance of an Order for Correction or notice letter, and/or any on-site issuance of a Stop Work Order by the Manager, or designee and all construction work shall remain stopped until the Manager, or designee release the order.
4. If an owner of a property has an ongoing violation to this Ordinance and in response to an Order for Correction or notice letter, issued by the Manager, or designee to prevent, or abate a human health hazard as described in § 254.59 Wisconsin Statutes and as

defined and prescribed by the Lafayette County Public Health Nuisance Ordinance/ and fails to correct/ or remove the health hazard as ordered, the County may enter upon the property and cause to have such human hazard corrected, or removed from the property and place the actual costs of doing the correction, or removal on the property owners property tax bill as a special assessment.

B. Penalty Provision

Any person who violates any of the provisions of this Ordinance, except as otherwise provided shall upon determination and/or adjudication of such violation be subject to a penalty and/or penalties as defined herein, each day a violation continues to occur, shall constitute s separate violation and offense.

1. The Lafayette County Sheriff's Office members are hereby authorized to issue citations to persons or organizations, corporations/partnerships, or entities that violate this ordinance upon completion of the investigation of the Lafayette County Land Conservation and Planning and Zoning Department or its designee.
2. A citation issued to any violator of this ordinance shall include all the information required for citations by Section 66.0113 of the Wisconsin Statutes.
3. If the violator receives a summons in addition to the citation, the violator must appear in court for the hearing on the citation.
4. Any citation and/or citation and summons issued under this ordinance can be served on the violator/defendant by the Lafayette County Sheriff's Office either in person or via mail.
5. A violator receiving a citation under this ordinance must pay a forfeiture deposit ranging from fifty dollars (\$50.00) to five hundred dollars (\$500.00), plus statutory costs, assessments, surcharges and fees. Upon finding of guilty or no contest to the citation, fees, fines amounts, or any restitution can be paid to the Lafayette County Clerk of Courts or by following instructions on the citation.
6. Any person; entity, and/or violator who, upon conviction pursuant to a lawsuit complaint, is found guilty of violating this Ordinance/or any part thereof shall forfeit not less than one hundred dollars (\$100.00), or not more than one thousand dollars (\$1000.00) for each offense, in addition to the costs of prosecution/ for each day of violation. Default in payment may result in imprisonment in the Lafayette County Jail for a period not to exceed six months for contempt.