Town of Cortland

Agenda Request

(SUBMIT FORM TO THE TOWN CLERK NO LATER THAN ONE WEEK BEFORE THE SCHEDULED MEETING)

ALL REQUESTS ARE SUBJECT TO THE APPROVAL OF THE MAYOR

☐ **RESOLUTION** ☒ **ORDINANCE** ☐ **INFORMATION** ☐ **OTHER**

DATE PREPARED: **JUNE 18, 2020** **FOR MEETING ON:** **JUNE 22, 2020**

DESCRIPTION/TITLE: **ORDINANCE AMENDING THE ZONING REGULATIONS REGARDING SOLAR ENERGY SYSTEMS**

REQUIRED ACTION: **MOTION TO APPROVE "AN ORDINANCE MODIFYING VARIOUS PROVISIONS OF THE TITLE 9 "ZONING REGULATIONS" IN THE TOWN OF CORTLAND CODE REGARDING SOLAR ENERGY SYSTEMS"**

STAFF/COMMITTEE RECOMMENDATION: **THE PLANNING COMMISSION AND TOWN STAFF ARE RECOMMENDING THAT THIS ORDIANANCE BE PASSED.**

STATEMENT OF CONCERN/SUMMARY: **SINCE THE STATE ENACTED THE "FUTURE ENERGY JOBS ACT" IN 2016, THE TOWN HAS BEEN APPROACHED BY THE SOLAR INDUSTRY REQUESTING PERMISSION TO CONSTUCT SOLAR ENERGY FARMS. CURRENTLY THE TOWN'S ZONING CODE IS SILENT REGARDING SOLAR FARMS, MEANING THAT THEY ARE NOT ALLOWED. IN 2018 A TEMPORARY MORATORIUM WAS ESTABLISHED TO ALLOW STAFF AND THE PLANNING COMMISSION TIME TO EXAMINE ALL ISSUES SURROUNDING SOLAR ENERGY SYSTEMS (THIS INCLUDES BOTH SOLAR FARMS/GARDENS AND PRIVATE SYSTEMS). IN 2019 STAFF BEGAN A SERIES OF WORKSHOPS WITH THE COMMISSIONERS TO EXAMINE VARIOUS ASPECTS OF SOLAR ENERGY SYSTEMS. BASED UPON THESE WORKSHOPS AND THE SUBSEQUENT PUBLIC HEARING (CONDUCTED ON JUNE 4, 2020) THE FOLLOWING MODIFICATIONS TO THE ZONING REGULATIONS ARE RECOMMENDED:**

1. **UPDATE VARIOUS DEFINITIONS.**
2. **UPDATE THE USE TABLES TO ALLOW SOLAR ENERGY FARMS AND GARDENS TO BE CONSIDERED ONLY AS SPECIAL USES WITHIN THE AGRICULURAL DISTRICT (AG) AND THE LIGHT INDUSTRIAL DISTRICT (I-1). IN ADDITION, FOR SMALLER SYSTEMS, THE CODE CURRENTLY ALLOWS SOLAR ENERGY SYSTEMS TO BE LOCATED WITHIN A REQUIRED SETBACK. IT IS BEING RECOMMENDED THAT THIS PROVISION BE REMOVED, THUS ANY SOLAR ENERGY SYSTEM (OTHER THAN POTENTIALLY A SOLAR ENERGY FARM/GARDEN) COULD ONLY BE LOCATED WITHIN THE BUILDING ENVELOPE.**
3. **A NEW SECTION BE ADDED TO THE ZONING REGULATIONS WHICH DEALS STRICTLY WITH SOLAR ENERGY SYSTEMS.**
4. **ONE ASPECT OF THE PROPOSED NEW SECTION WOULD BE TO ALLOW OWNERSHIP AND WARNING SIGNS TO BE INCLUDED ON FENCES, WHICH IS CURRENTLY NOT ALLOWED BY THE SIGN CODE. A MODIFICATION TO THE SIGN CODE IS PROPOSED TO ALLOW THIS TYPE OF SIGNAGE TO OCCUR, ONLY AS IT PERTAINS TO SOLAR FARMS/GARDENS.**

Prepared by: Anna Kurtzman Approved by: Date:

FINDING OF FACT AND RECOMMENDATION
TO THE TOWN OF CORTLAND BOARD OF TRUSTEES
PC 2020-03

To: Cortland Board of Trustees

From: Cortland Planning Commission

Date: June 18, 2020

RE: Consideration of a request to amend the Zoning Regulations regarding Solar Energy Systems

The Cortland Planning Commission conducted a Public Hearing on June 7, 2020, at 7:27 p.m. in the Town of Cortland Town Hall at 59 S. Somonauk Road, Cortland, Illinois. The purpose of the Public Hearing involved consideration of the request by the Town of Cortland as applicant to amend Sections 9-2-2, 9-3-7G, 9-3-13B2, 9-6-5, 9-10-8 and add a new Section 9-4-34 to the Zoning Code. The proposed revisions are in regard to Solar Energy Systems.

Public notice was given through publication in the Daily Chronicle.

The Planning Commission reviewed and considered the material and information presented at the public hearing. A motion was made to approve the text amendments which passed through a unanimous roll call vote.

Respectfully Submitted,

S. Bradley Lawson

Brad Lawson, Chairman
CORTLAND PLANNING COMMISSION

TOWN OF CORTLAND
DEKALB COUNTY, ILLINOIS

TOWN OF CORTLAND
ORDINANCE NO. 2020-__

AN ORDINANCE MODIFYING VARIOUS PROVISIONS OF THE TITLE 9 "ZONING REGULATIONS" IN THE TOWN OF CORTLAND CODE REGARDING SOLAR ENERGY SYSTEMS

ADOPTED BY THE
MAYOR AND BOARD OF TRUSTEES
OF THE TOWN OF CORTLAND

This ___ day of _____, 2020

Effective date: _____, 2020

Published in pamphlet form by the authority of the President and Board of Trustees of the Town of Cortland, DeKalb County, Illinois, this ____ day of _____, 2020.

ORDINANCE 2020-__

AN ORDINANCE MODIFYING VARIOUS PROVISIONS OF THE TITLE 9 "ZONING REGULATIONS" IN THE TOWN OF CORTLAND CODE REGARDING SOLAR ENERGY SYSTEMS

WHEREAS, the Town of Cortland has determined that it is in the best interest of its citizens to amend certain portions of the Zoning Regulation Title within the Town Code to accommodate Solar Energy Systems; and

WHEREAS, a public hearing was held by the Cortland Planning Commission on the 4th day of June, 2020, for which public notice was given as provided by law, and

WHEREAS, said Planning Commission has recommended to the Board of Trustees approval of the following zoning text amendments;

NOW THEREFORE BE IT ORDAINED by the Board of Trustees of the Town of Cortland, Illinois, that Title 9, "Zoning Regulations" be hereby amended as follows:

Section 1. That Section 9-2-2 shall be amended by deleting the following Definitions:

CONVENTIONAL ENERGY SYSTEM: An energy system utilizing fossil fuel, nuclear or hydroelectric energy and the components of such system, including transmission lines, burners, furnaces, tanks, boilers, related controls, distribution systems, room or area units and other components.

ENERGY USE SITES: Sites where energy is or may be used or consumed for generating electricity or for heating or cooling gases, solids, liquids, or other materials and where solar energy may be used cost effectively, as defined in the regulations of the Illinois department of commerce and economic opportunity, consistent with the purposes of the Illinois comprehensive solar energy act of 1977.

JOINT SOLAR ENERGY SYSTEM: A solar energy system that supplies energy for structures or processes on more than one lot or in more than one condominium unit or leasehold, but not to the general public and involving at least two (2) owners or users.

SOLAR STORAGE MECHANISM: Equipment or elements (such as piping and transfer mechanisms, containers, heat exchangers, or controls thereof, and gases, solids, liquids, or combinations thereof) that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

SUPPLEMENTAL CONVENTIONAL ENERGY SYSTEM: A conventional energy system utilized for providing energy in conjunction with a solar energy system that provides not less than ten percent (10%) of the energy for the particular end use. "Supplemental conventional energy system" does not include any facilities of a public utility used to produce, transmit, distribute or store gas or electricity.

Section 2. That Section 9-2-2 shall be amended by adding the following Definitions:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS: A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting 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 systems that are contained within roofing materials, windows, skylights, and awnings.

GROUND-MOUNT: A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

PHOTOVOLTAIC SYSTEM: A solar energy system that converts solar energy directly into electricity.

ROOF-MOUNT: A solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.

SOLAR COLLECTOR: 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 collector.
Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

SOLAR FARM: A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

SOLAR GARDEN: A commercial solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing or located off-site from the location of the solar energy system.

Section 3. That Section 9-3-7G (Other Uses) shall be amended by adding Solar Farms and Solar Gardens as special uses in the AG and I-1 zoning districts as follows:

	AG	**R-1**	**R-2**	**R-3**	**R-4**	**C-1**	**C-2**	**I-1**	**I-2**	**P-1**
Solar Farm	S							S		

Solar Garden	S							S		

Section 4. That Section 9-3-13B2 (Table of Permitted Yard Obstructions) shall be amended to delete reference to the following:

Structure or Use	Front Yard	Corner Side Yard	Rear Yard	Side Yard
Solar Energy systems, attached	P	P	P	P
Solar Energy systems, detached	P	P	P	P

Section 5. That Section 9-6-5 shall be amended by adding the following:

V. Identification and warning signs as required by Section 9-4-34B3.

Section 6. That Section 9-10-8 shall be deleted in its entirety and replaced with the following:

A. Failure To Establish, Operate, Or Construct A Special Use Permit: Unless the special use is established, constructed and/or operating within one year from the authorization date granting the special use, the special use permit shall expire, without further action by the board of trustees, with the exception that the expiration of a special use for a planned unit development granted in accordance with an annexation agreement or other enforceable agreement with the town shall be governed by the terms of the agreement concerning expiration, and shall not be subject to the requirement of this subsection. Upon written application, the town board may authorize a single extension of the time limit for a period not to exceed one year.

B. Failure to Establish, Operate, or Construct a Special Use Permit for either a Solar Farm or Solar Garden: Unless the special use for either a Solar Farm or Solar Garden is established, constructed, and/or operating within three (3) years from the authorization date granting the special use, the special use permit shall expire, without further action by the Board of Trustees. Upon written application, the Town Board may authorize a single extension of the time limit for a period not to exceed one year.

C. Discontinuance Or Abandonment Of A Special Use Permit:

1. Special Use Permits Granted Prior To December 31, 2007: All special use permits in existence on or before December 31, 2007, that have been discontinued or abandoned for one hundred eighty (180) consecutive days shall expire on December 31, 2008, without further action by the board of trustees, with the exception that the expiration of a special use for a planned unit development granted in accordance with an annexation agreement or other enforceable agreement with the town shall be governed by the terms of the agreement concerning expiration, and shall not be subject to the requirement of this

subsection.

2. 2. Special Use Permits Granted On Or After December 31, 2007: If any special use permit granted on or after December 31, 2007, is discontinued or abandoned for one hundred eighty (180) consecutive days the special use shall expire, without further action by the board of trustees, with the exception that the expiration of a special use for a planned unit development granted in accordance with an annexation agreement or other enforceable agreement with the town shall be governed by the terms of the agreement concerning expiration, and shall not be subject to the requirement of this subsection.

Section 7. That a new Section 34 Solar Energy Systems will be added to Title 9, Chapter 4 as follows:

9-4-34: SOLAR ENERGY SYSTEMS:

A. Permitted Accessory Use: Roof mount or building-integrated private solar energy systems must meet the building setbacks as required by Section 9-3-6A.

B. Solar Farms and Solar Gardens that are the principal use on the property may only be located and permitted in an Agricultural (AG) district or a Light Industrial (I-1), but only when authorized and approved as a Special Use by the Town Board after public hearing and recommendation by the Planning Commission.

Such Special Use as may be allowed shall be subject to the following requirements, restrictions, and conditions:

1. Bulk Regulations:

i. Minimum Lot Area: 5 Acres
ii. Front and Corner Side Yard: 50 feet
iii. Side Yard: 50 feet
iv. Rear Yard: 50 feet
v. Height: Ground or pole mounted solar energy system shall not exceed 10 feet in height as measured when the system is oriented at its maximum tilt. All other equipment shall not exceed 15 feet in height.

2. Off-Street Parking: There shall be a minimum of two (2) parking spaces with minimum dimensions of 10 by 20 feet. Accessways shall be a minimum of 12 feet wide. Parking spaces and accessways located on private property do not have to be paved but do need to have a minimum of a seven (7) inch compacted stone base. Accessways located within the right-of-way shall meet standards set by the Town Engineer

3. Signage: An identification sign shall be posted at the entrance(s) to the site.

Each such identification sign shall list the name and phone number of the operator. In addition to the identification sign(s) there shall be appropriate warning signage that is posted along all property lines which are clearly visible on the site. Both the identification sign(s) and the warning sign(s) are exempt from Section 9-6 of the Municipal Code.

4. Power and Communication Lines: Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground.

5. Batteries: If the solar farm or solar garden consists of batteries or storage of batteries, adequate design must be provided to ensure all local, State and Federal requirements regulating outdoor battery storage have been met.

6. Interconnection. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

7. Stormwater and NPDES. Solar Farms and Solar Gardens are subject to the Town's stormwater management and erosion and sediment control provisions and NPDES permit requirements.

8. Ground Cover and Buffer Areas. The site of a ground mounted Solar Farm or Solar Garden energy system shall be improved and maintained with a native perennial vegetative ground cover over the entire property including under and around solar panels. The purpose of this ground cover shall be the prevention of soil erosion and the management of stormwater run-off. Topsoil shall not be removed during development, unless part of a remediation effort.

9. Foundation. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

10. Other Standards and Codes. All Solar Farms and Solar Gardens shall be in compliance with all applicable local, state and federal regulatory codes.

11. Site Plan Required. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, easements, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Town.

12. FAA Compliance. Solar Farms and Solar Gardens that are located within 500 feet of an airport or within approach zones of an airport, are required to complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the

Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

13. Endangered Species and Wetlands. Solar Farm and Solar Garden developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department's online, EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer. Results of this consultation will be included in the Special Use application packet.

14. Upon request from the Town, the owner or operator of a Solar Farm or Solar Garden must submit, within 14 calendar days, a current operation and maintenance report to the Town.

15. Decommissioning

i. A decommissioning plan shall be required to be submitted when applying for all Solar Farms and Solar Gardens, to ensure that facilities are properly removed after their useful life.

ii. Decommissioning of solar panels must occur in the event they are not in use for 90 consecutive days.

iii. The owner or operator will have 6 months to complete the decommissioning plan after operation of a Solar Farm or Solar Garden stops being operational.

iv. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.

v. The Town Board of Trustees may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of financial surety may be required prior to the issuance of a building permit for the facility. Said surety shall remained updated and valid until the Solar Farm/Solar Garden has been completely decommissioned in accordance with the latest approved decommissioning plan and restored in compliance with Section 9-4-34B15. As outlined in the ordinance establishing the Special Use Permit, the amount of surety shall be periodically reviewed by staff and the surety amount adjusted accordingly.

vi. In the event that the State of Illinois enacts a law with regards to the decommissioning of a Solar Farm or Solar Garden, the strictest

requirements shall prevail.

vii. The owner of a Solar Energy Facility shall submit an update to this decommissioning plan every three (3) to five (5) years following issuance of the special use.

16. Restoration Requirements: The owner of a Solar Farm or Solar Garden shall provide the Zoning Administrator with a written notice of termination of operations or abandonment of the Solar Energy Facility. Within one hundred twenty (120) consecutive calendar days immediately following the Town's receipt of such written notice or within one hundred twenty (120) consecutive calendar days immediately following the termination of such Special Use, whichever first occurs, the owner of each such Solar Farm or Solar Garden shall:

i. Remove all structures, buildings, solar panels, above ground improvements, outdoor storage, fencing, equipment, and roadways; and

ii. Completely remove all foundations, pads, and underground electrical wires; and

iii. Remove all hazardous material from the property and dispose of the hazardous material in accordance with all applicable Federal, Illinois, and Town laws, statues, ordinances, rules, and regulations; and

iv. Restoration of all soil and vegetation.

17. Bonds: Prior to the issuance of a building permit, the owner of a Solar Energy Facility shall provide the Town with a performance and payment bond with adequate security or surety bond in an amount determined adequate by the Town Board to guarantee the performance of the aforesaid restoration requirements and decommissioning plan.

18. Abandonment. A decommission plan shall be approved by the Town Board during the special use permit process. At the time of building permit, a letter of credit, or other financial surety instrument approved by the Town Attorney, in the amount of the estimated cost of decommission, as approved by the Town Engineer, shall be submitted to the Town. If the Solar Farm or Solar Garden is abandoned and not properly decommissioned, the Town shall utilize the funds to restore the property to its original or an improved condition.

C. Solar Skyspace Easements: The issuance of a permit for a solar energy system does not constitute a granting of a solar skyspace easement by the Town. A solar skyspace easement is not a prerequisite for obtaining a zoning or building certificate from the Town but the owner/operator shall assume all responsibility for obtaining covenants, easements, or similar documentation to assure sufficient sunlight to operate the solar

energy system unless adequate access to sunlight is provided by the site and assumes all risks associated with operating the solar energy system without a solar energy easement.

D. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least $3 million per occurrence and $5 million in the aggregate. The Town shall be named as an individual insured on the policy to the extent the Town is entitled to indemnification.

E. Any Solar Energy System(s), Applicant, Owner, or Operator, whether individual or commercial shall defend, indemnify, and hold harmless the Town and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the Solar Energy System(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the Town's other indemnification rights available under the law.

This Ordinance shall, by authority of the Board of Trustees of the Town of Cortland, Illinois, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

PASSED BY THE BOARD OF TRUSTEES of the Town of Cortland, Illinois, at a regular meeting thereof held on the ___ day of _____, 2020, and approved by me as Mayor on the same day.

AYE:
NAY:
ABSENT:

_____
Russell C. Stokes, Mayor

ATTEST:

_____
Cheryl Aldis, Town Clerk