

ZONING ORDINANCE 23-_____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA,
AMENDING ARTICLE 18 SITE DEVELOPMENT STANDARDS, SECTION 1824, SOLAR
ENERGY POWER PLANTS. OF THE COCHISE COUNTY ZONING REGULATIONS**

WHEREAS, Arizona Revised Statutes (“A.R.S.”) §§ 11-811, et seq. gives the Cochise County Board of Supervisors (the “Board”) the authority to adopt zoning regulations to address land use; and

WHEREAS, the Board originally adopted Zoning Regulations in Cochise County, pursuant to that authority in 1975, and has with periodic modification, maintained them in effect since that time; and

WHEREAS, the Board recognizes that amendments to the Zoning Regulations can affect countywide land use patterns and therefore, warrants careful consideration of regional impacts; and

WHEREAS, Article 18 of the Zoning Regulations sets forth specific criteria, known as site development standards, with which all uses in all Zoning Districts must comply unless otherwise exempted by the Zoning Regulations. These standards are designed to protect surrounding properties from adverse impacts of the proposed use; and

WHEREAS, Section 1824 of the Zoning Regulations specifically applies to Solar Energy Power Plants, which are utility scale, non-residential systems that provide electricity to off-site consumers; and

WHEREAS, the Board recognizes the general purpose of this amendment is to incorporate newer and more updated best practices into site design as well as mandate additional owner/operator responsibilities that will ultimately reduce long-term County liability for removal and site restoration; and

WHEREAS, on December 14, 2022, the Planning and Zoning Commission held a duly noticed public hearing on the proposed amendments to the Zoning Regulations, hereby known as Docket R-22-04; and

WHEREAS, on January 10, 2023, the Board of Supervisors held a duly noticed public hearing of the proposed amendments to the Zoning Regulation, Docket R-22-04 attached hereto as “Exhibit A” that will amend Article 18 of the Cochise County Zoning Regulations and found them to be in the public interest.

NOW, THEREFORE, BE IT RESOLVED THAT by the Board of Supervisors of Cochise County, Arizona that the Cochise County Zoning Regulations shall be amended as contained in “Exhibit A,” attached hereto.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA, THIS 10th DAY OF JANUARY 2023.

Ann English, Chair
Cochise County Board of Supervisors

ATTEST:

Tim Mattix
Clerk of the Board

APPROVED AS TO FORM:

Paul Correa

Paul Correa
Civil Deputy County Attorney

EXHIBIT A

1824 SOLAR ENERGY POWER PLANTS

1824.01 Intent

Solar Energy Power Plants are constructed primarily for the purpose of providing electricity to off-site consumers.

1824.02 Applicability

Solar Energy Power Plants shall be allowed as a Permitted Use in LI and HI and may be permitted in RU and GB Zoning Districts by Special Use Authorization only. They may also be approved as part of a PD or Master Development Plan. This does not include residual power returning to the grid provided by small-scale systems, which primarily provide on-site power, subject to Arizona Corporation Commission regulations. Site-specific conditions and/or project scope may require that Applicants provide drainage and soil reports, water budgets and conservation measures, environmental assessments or environmental impact statements, visual impact analyses, FAA obstruction analysis, and/or cultural resources assessments with their application.

1824.03 Design Standards

The following site development standards shall apply for the permitting, construction, and operation of Solar Energy Power Plants:

A. ~~1824.01~~ Height

~~Solar Energy Power Plants are exempt from height limits per Article 20 (Height Exceptions) of the Zoning Regulations.~~ Ground or pole-mounted solar energy systems shall not exceed twenty (20) feet in height when oriented at maximum tilt. Roof-mounted solar energy systems shall not exceed ten (10) feet in height from roof surface, when oriented at maximum tilt.

B. ~~1824.02~~ Setbacks

1. Setbacks from all property boundaries and road travel ways for Solar Energy Power Plants shall be, at minimum, twice the minimum setback requirement for the respective Zoning District or shall equal the height of the tallest structure, whichever is greater.
2. Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening, or berm.

C. ~~1824.03~~ Distance Between Structures

There shall be no minimum distance required between Solar Energy Power Plant components or design features and other structures on a property.

D. Lot Coverage

Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained with perennial vegetated groundcover and not compacted.

E. Groundcover

Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project with a vegetated perennial ground cover.

F. Power and Communication Lines

1. All on-site utility and transmission lines, including power and communication lines running between banks of solar panels and/or interconnections with buildings shall be buried underground to the maximum extent feasible.

2. Power and communication lines between the project and the point of interconnection with the transmission system may be overhead.

G. Fencing

Perimeter fencing for the site shall incorporate wildlife-friendly fencing standards specific to the site to the greatest extent possible.

1824.04 Transfer or Sale

A. No transfer of any Solar Energy Power Plant or Special Use Permit, nor sale of the entity owning such facility shall occur without written acceptance by the transferee of the obligation of the transferor under this Local Law. No transfer shall eliminate the liability or responsibility of an applicant or of any other party under this Local Law for acts or omissions occurring prior to such transfer or sale.

B. In the event of a transfer of unit ownership, the County reserves the right to reassess the amount of the bond and request an additional amount to be posted in order to provide adequate surety. Any costs to the County associated with these activities shall be reimbursed by the current project owner or operator.

1824.05 Cessation of Use/Abandonment or Damage

A. Should any part of the Solar Energy Power Plant be damaged, or should a Solar Energy Power Plant violate a permit condition, the owner or operator shall cure any deficiency within ninety (90) days after written notice from the County.

B. If any Solar Energy Power Plant remains non-functional or inoperative for a continuous period of (1) one year, the applicant and or its successors or assigns, without any further action by the County, shall remove said system and restore the site at its own expense, subject to the provisions of the Decommissioning Plan.

1824.06 Decommissioning and Site Restoration

- A. All applications for a Solar Energy Power Plant must include a Decommissioning Plan, acceptable to the County, to ensure that all system components are properly decommissioned upon the end of their operational life, cessation of use, or determination of abandonment.
- B. The Decommissioning Plan shall state how the facility will be decommissioned and will include a Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the financial assurances necessary to fund the decommissioning.
- C. Removal of the system shall include, but not be strictly limited to the following:
 - 1. All above ground components including but not limited to, Solar arrays, transformers, battery energy storage systems, above ground collection cables and poles and fencing.
 - 2. Foundations and buried project components, other than buried collection lines, must be removed to a depth of thirty-six (36) inches.
 - 3. Buried collection lines must be removed to a depth of thirty-six (36) inches. Collection lines below a depth of thirty-six (36) inches may remain in place.
 - 4. Removal activities must be completed within one year of decommissioning initiation unless otherwise approved by the County.
- D. Restoration of each site shall include:
 - 1. Ground disturbance must be minimized to the extent practical, and the site restored to its original ground contours if possible.
 - 2. Disturbed on site soils and vegetation will be reasonably restored and re-established using native seed mix and with proper soil nutrients (fertilizer, lime and other amendments) to provide and sustain growth or in coordination with the landowner to allow desired vegetation to be planted.
 - 3. Roads must be adequately restored to their original condition following decommissioning activities.
 - 4. Access roads, fencing associate drainage improvements, and residual minor improvements may remain with written consent from the landowner.
 - 5. Removal and remediation of any hazardous materials.
- E. The County shall be granted the right of entry onto the site, pursuant to reasonable notice to the property owner, to effect or complete decommissioning pursuant to the Decommissioning Plan.

1824.07 Financial Assurance Required

- A. The owner/operator shall continuously maintain financial assurance in the amount of the decommissioning costs. Examples of such include a performance bond, surety bond, trust instrument, cash, escrow, or irrevocable letter of credit, or other form approved by the County. This financial assurance shall be in place before the commencement of construction and will be in the amount of the decommissioning costs, to be determined by a qualified independent engineer licensed to practice in the State of Arizona. All costs of this financial assurance shall be borne by the owner/operator. The cost estimate shall be updated at no more than five-year intervals by the

owner/operator to ensure an accurate estimation of costs associated with equipment value and site restoration, adjusted for inflation.

- B. The financial assurance may further be utilized by the County for the costs of correcting any other acts of non-compliance with these regulations or directives of the County.