

Item VIII Text Amendment to Chapter 12 – Subchapter 100 Zoning Ordinance, to provide clarification regarding standards and processes that will be utilized in the review of different size solar developments.

Chair Brusveen opened Public Hearing.

Mr. Calkins presented the proposed ordinance, and review of staff recommended changes.

Chair Brusveen asked if there was any public input.

Elizabeth Groves – Ms. Groves was present and expressed concerns over process and ordinance.

Becky Santowski – Ms. Santowski was present and expressed concern about the type of land being used.

Brad Schack – Mr. Schack was present and expressed favor to the proposed ordinance without staff recommended changes.

Travis Anderson – Mr. Anderson was present and was not in favor of ordinance process.

Ron & Julie Ziegler – Mr. & Ms. Ziegler were present and questions about ordinance.

Lori McIlrath – Ms. McIlrath was present and expressed concerns about solar.

Supervisor Groves – Supervisor Groves was present and asked questions about status of large project permits. He also wished Committee would turn down ordinance.

Chair Brusveen closed the Public Hearing.

Mr. Kolberg stated he believes ordinance is a good start and we should support it without Staff Recommendations.

Supervisor Richmond spoke regarding process leading up to this point.

Motion by Mr. Richmond to approve proposed ordinance with staff recommended changes as presented.

Seconded by Mr. Kolberg.

Motion by Chair Brusveen to postpone indefinitely.

Seconded Mr. Kolberg.

Motion carried unanimously.

12. Adjourn

Motion by Chair Brusveen to adjourn meeting.

Seconded by Mr. Kolberg.

Meeting adjourned at 7:09 PM

Respectfully Submitted,

Notice of Public Hearing

Notice is hereby given the Columbia County Planning & Zoning Committee will conduct Public Hearings in the Columbia County Administration Building, Meeting Room 115, 112 E Edgewater Street, Portage, WI, commencing at **3:00 PM, Tuesday, the 5th day of December 2023** on the following proposed amendments to Chapter 12, Subchapter 100 of the Columbia County Code of Ordinances:

1. Proposed Text Amendments to Chapter 12 – Subchapter 100 Zoning Ordinance, to provide clarification regarding standards and processes that will be utilized in the review of different size solar developments.

Further clarification or questions regarding the public hearing proposals are available on the County Planning & Zoning Department website at www.co.columbia.wi.us/columbiacounty/planningzoning, and are available upon request to the Planning & Zoning office via phone call, email or in person.

All amendments to Chapter 12, Subchapter 100 of the Columbia County Code of Ordinances are adopted pursuant to Section 59.69 of the Wisconsin Statutes. Copies of the petitions are on file in the Columbia County Planning & Zoning Office.

Kurt Calkins
Director of Planning & Zoning



Planning & Zoning Department
Commercial Small Scale Solar Energy System <100 MW
Conditional Use Permit Considerations
June 6, 2023.

Background: The conditional use permit (CUP) process is a review process that is designed to be site specific in nature. Each CUP request for all different types of uses, is always designed to be adaptable to a wide range of different situations and needs that may arise during any given review process. The staff in the department use existing skills and knowledge to evaluate all proposals based on a team review approach.

Special considerations regarding CUP reviews related to Solar Energy Systems.

66.0401 Regulation relating to solar and wind energy systems.

(1e) DEFINITIONS. In this section:

- (a) "Application for approval" means an application for approval of a wind energy system under rules promulgated by the commission under s. 196.378 (4g) (c) 1.
- (b) "Commission" means the public service commission.
- (c) "Political subdivision" means a city, village, town, or county.
- (d) "Wind energy system" has the meaning given in s. 66.0403 (1) (m).

(1m) AUTHORITY TO RESTRICT SYSTEMS LIMITED. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:

- (a) Serves to preserve or protect the public health or safety.
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
- (c) Allows for an alternative system of comparable cost and efficiency.

Wis. Stat. § 59.69 further defines the standards for review and approval of conditional use permits.

- (bs) As part of its approval process for granting a conditional use permit under this section, a county may not impose on a permit applicant a requirement that is expressly preempted by federal or state law.

Background - CUP Considerations

59.69(5e)

(5e) CONDITIONAL USE PERMITS.

(a) In this subsection:

1. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a county, but does not include a variance.
2. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b)

1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the county zoning board, the county shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
2. The requirements and conditions described under subd. 1. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the county relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The county's decision to approve or deny the permit must be supported by substantial evidence.

(c) Upon receipt of a conditional use permit application, and following publication in the county of a class 2 notice under ch. 985, the county shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the county may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the county zoning board.

(e) If a county denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694 (10).

Departments Primary Objectives When Reviewing Commercial Solar Development Projects:

1. Aesthetically reasonable and visually safe distance setbacks from roadways, residences, and unique adjacent land uses.
2. Aesthetically beneficial vegetative screenings and maintenance of those vegetative screenings.
3. To the extent feasible and practical, the utilization of the land for both agriculture and electricity generation (Agrivoltaics) among solar panels, possibly including but not limited to:
 - a. Planting and maintaining pollinator-friendly native plant species and reduced herbicide applications.
 - b. Grazing of livestock such as sheep and chickens.
 - c. Planting of shade vegetables.
4. Consider mitigation to locally identified environmentally sensitive species and habitats:
 - a. Following best construction practices to allow smaller wildlife access through fenced fields.
 - b. Following best construction practices to allow larger wildlife access natural movement around the fenced fields.
5. Identify and follow Best Management Practices (BMP's) associated with projects using battery storage.
6. Specific construction-related dust mitigation measures.
7. Specific construction-related stormwater runoff and erosion control mitigation measures, with a focus on assuring implementation of mitigation measures.
8. Specific equipment-related sound mitigation measures that keep noise generation at property line below 50 decibels, possibly including but not limited to:

Background - CUP Considerations

- a. Relocating equipment further from receptors.
 - b. Noise cancellation using quieter equipment.
 - c. Sound shielding technology.
 - d. Sound filtering technology.
 - e. Noise suppression and blocking with building enclosures or barrier walls.
9. Maintenance and repair of damage to local roads related to solar project construction.
 10. Identify soil drainage infrastructure that is impacted, and mitigation efforts that will be implemented.
 11. Fire mitigation, possibly including but not limited to:
 - a. Battery-related fire suppression design and chemical release containment design.
 - b. Cleanup and monitoring of any fire-related chemical releases.
 - c. Training and drills for local firefighting and emergency response departments.
 12. Replacement of lost property tax revenue.
 13. Construction security bonds and project insurance.
 14. Decommissioning Plan and financial assurance to cover project costs.
 15. Other community benefits as may be appropriate to specific proposed solar developments.
 16. Stray voltage considerations.

Recent examples of objectives put into considerations for CUP application for solar project:

Development Constraints (Staff Comments Italicized):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Public Road Access | <i>Local Corridor: State Hwy 16 & Wolfram Road</i> |
| <input checked="" type="checkbox"/> Site Access Meets Spacing Recommendations | |
| <input checked="" type="checkbox"/> Site Access is Adequate for Fire and Rescue Vehicles | <i>Access will be provided From Roads and approved access points off Town Roads.
Portage Fire Department 8.7 miles
Portage Hospital 9.1 miles</i> |
| <input type="checkbox"/> Near an Airport Facility | |
| <input type="checkbox"/> Public Sewer or Water Available | |
| <input checked="" type="checkbox"/> Prime Agricultural Soils | <i>Approximate Area: 273 AC (35%) Estimate</i> |
| <input checked="" type="checkbox"/> Enrolled in Farmland Preservation Program | <i>See DATCP Handout for Information</i> |
| <input checked="" type="checkbox"/> Soil Conservation Plan for Site | <i>Yes for lands enrolled in FPP</i> |
| <input type="checkbox"/> Enrolled in Conservation Program(s) | |
| <input checked="" type="checkbox"/> Environmental Corridor:
<input checked="" type="checkbox"/> Wetlands | <i>Solar Project Proposed outside of corridors, in Agricultural Lands. Shoreland Zoning Standards Being met.</i> |
| <input type="checkbox"/> Floodplains | |

Background - CUP Considerations

- Woodlands
- Shoreland (35' buffer) Shoreland Standards are being applied to project
- Steep Slopes (> 12%)
- Shallow Soils (< 60" to bedrock)
- Archeological Site
- Historic Structure/Place

Conditions for Consideration:

Several items should be considered as conditions of approval, including but not limited to:

1. Further specific details regarding decommissioning plans and financial assurance.
2. A copy of the most current decommissioning plan shall be provided to the Planning and Zoning Department whenever updated.
3. A 12-month notice shall be provided to the Planning and Zoning Department and the Town Clerk prior to decommissioning of the site.
4. A final vegetation management plan shall be developed. This plan shall result in the restoration of the site with low-growing native and non-native grasses and forbs. This plan should provide pollinator habitat in specified areas, manage noxious and invasive plant species, and provide for stable ongoing vegetation management for the life of the project.
5. Additional landscaping standards, including submission of site-specific exterior landscaping plan for vegetated screening on exterior of perimeter fence.
6. Landscaping shall be installed no later than 12 months from the date of Conditional Use Permit issuance. At the time of planting the minimum size of the evergreens shall be as follow 4 feet in height. The landscaped area, including the area within the panel array, shall be maintained and replaced if diseased or dead. A more detailed landscaping plan should be submitted for final approval and incorporation.
7. Any amendments to the site plan shall be reviewed and approved by the Planning and Zoning Department, with significant changes, as determined by the Zoning Administrator, being referred to the Town and Committee for action.
8. Land Disturbance Permit required. Prior to issuance of a Zoning Permit associated with land disturbing and development activities, the applicant shall submit a stormwater management plan and erosion control plan, prepared, and stamped by a licensed engineer qualified in stormwater management planning. Written evidence of State of Wisconsin approval of construction site erosion control plan and associated permit shall be submitted to the Planning & Zoning Department. A phased approach to land disturbance activities across the project boundaries should be considered, to reduce offsite impacts and erosion potential.
9. The owner and operator shall comply with and obtain all necessary permits required by applicable federal, state, and local regulations.
10. DNR concurrence and approval for placement of solar arrays in delineated wetlands.
11. Public roads shall be kept free of all mud, debris, and dust by sweeping or other means necessary, or as requested by the county or town.
12. Road maintenance agreements with the applicable jurisdiction(s) (Town and County Highway Department), shall be executed to ensure pre/post road quality and conditions.

Background - CUP Considerations

13. Driveway permits shall be secured from the Town of Lewiston for all proposed driveway and access points.
14. Prior to construction, the applicant shall apply for Emergency Response Numbers (ERNs). The specific location and number of ERNs necessary should be discussed with the Town of Lewiston and local public safety officials, including consultation with Portage Fire, Columbia County Sheriff's Department, and local EMS.
15. Additional Emergency Management and/or Fire Protection Service concerns. Applicant shall develop an Emergency Response Plan that deals with both the construction phase and the operation phase. This plan shall include training for local fire and EMS.
16. The completed solar generation facility shall maintain a noise level no greater than 50 dB at the property line during the day and 45 dB at night.
17. The landowners and applicant acknowledge that the Portage Community School District and Madison Area Technical College (MATC) currently receive property tax revenue from the land located in the project area though property tax payments, but they do not directly receive such Utility Shared Revenue Payments. The landowners and applicant agree to pay such portions of lost property tax revenues that would have been collected and paid directly to the both the Portage Community School District and MATC. A reasonable inflationary escalator should be applied throughout the useful life of the project. A Joint Development Agreement shall be executed between the jurisdictions to accomplish this.
18. Stray Voltage concerns from the project areas shall be considered. Inclusion of pre-construction and post-construction stray voltage testing shall be considered to determine if stray voltage levels remain within the Public Service Commission guidelines. Considerations shall be discussed regarding processes that will be required throughout the project life to address any stray voltage issues.
19. Landowners shall meet with Columbia County Land & Water Conservation Department staff to review Farmland Preservation Tax Credit eligibility for lands owned. Landowners shall get updated Farmland Preservation Compliance Certificates from the Columbia County Land & Water Conservation Department that accurately reflect the actual A-1 zoned parcels that are eligible to be claimed for Farmland Preservation Program Tax Credits.
20. The Planning and Zoning Department shall have the right of inspection for the purpose of determining compliance with this permit during normal working hours or upon reasonable notice outside of normal hours. Inspection will be done in compliance with the project-specific health and safety site visitation protocols.
21. The landowners and applicant shall identify any soil drainage infrastructure that may be impacted and any mitigation efforts that would need to be implemented to deal with any offsite impacts. Said mitigation measures shall be implemented and filed with the Columbia County Planning & Zoning Department.



COLUMBIA COUNTY

Planning & Zoning Department

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WEBSITE: www.co.columbia.wi.us

112 E Edgewater Street
Portage, WI 53901

TO: Columbia County Town Chairs

FROM: Kurt Calkins, Director of Planning & Zoning

RE: Proposed Text Amendments Chapter 12 Subchapter 100, entitled Columbia County Zoning Ordinance. *Purpose is to provide clarification regarding standards and processes that will be utilized in the review of different size solar developments.*

DATE: September 26, 2023

Attached you will find a Draft Committee Amending Ordinance dated 9/20/2023 for your consideration and review. This draft ordinance was developed by the Planning & Zoning Committee in collaboration with input from departmental staff. These changes are being proposed to help clarify how various size solar development projects are regulated under the County Zoning Ordinance.

Wis. Stat. §66.0401 provides for the regulatory framework relating to solar systems. The attached June 6, 2023 document summarizes the statutory language specific to solar. This document also provides a summary of how Wis Stat. §59.69 governs any local permitting process.

Solar developments can be divided into 3 different categories: accessory, small and large. The Ordinance provides guidance on how each different category would be handled and what the expectations are for submission. Accessory solar, such as solar for personal use on your home are subject to administrative zoning permits. Small solar projects (<100 MW) are subject to the conditional use permit process, as well as administrative zoning permits. Large solar projects (>100 MW) are subject to State review and approval by the Public Service Commission (PSC). These large solar projects are not subject to conditional use permits but are required to get administrative zoning permits. The caveat is that the permits can be no more restrictive than the approval granted by the PSC.

The proposed ordinance changes are designed to clarify the submission and review requirements that apply for each category. The specifics outlined in the small solar conditional use permit requirements and review criteria are designed to attempt to address the wide range of concerns expressed through public input on this topic. The goal is to set expectations that result in dialog between the applicants and the approving authority.

On September 20, 2023 the Columbia County Planning & Zoning Committee voted to send this draft ordinance to public hearing. The public hearing will be held at 3:00 pm on November 7, 2023. (See attached public hearing notice).

A staff analysis was performed on this document prior to approval to go to public hearing. The committee has not yet reviewed this staff analysis and none of the proposed changes have been incorporated into this document at this time. The committee asked that we distribute this document with

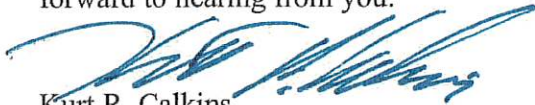
Background - Memo

the proposed ordinance amendments, so you have it as you review and provide comment. The department envisions that the committee will review our recommendations as part of the public hearing process in November.

Please take time to review the draft ordinance along with the staff analysis. You can provide input at the public hearing, or you can provide written comments to our office ahead of the public hearing.

The solar debate has been center stage for more than a year. This is a real opportunity for us to finalize the dialog and put in place some specific language in our ordinance that at a minimum clarifies the process and expectations. It is very important for the department to have an ordinance that is implementable, realistic, and legally enforceable. That is why the staff analysis was done and is provided with this package.

Please feel free to reach out to me with any questions you have. On behalf of the committee, we look forward to hearing from you.



Kurt R. Calkins
Director Of Planning & Zoning
Columbia County

Proposed Amending Ordinance with notations for reference to Staff Analysis

ORDINANCE NO. _____

An Amending Ordinance

SYNOPSIS: AMEND CHAPTER 12 – SUBCHAPTER 100 – COLUMBIA COUNTY ZONING ORDINANCE OF THE COLUMBIA COUNTY CODE OF ORDINANCES

INTRODUCED BY: PLANNING & ZONING COMMITTEE

The Columbia County Board of Supervisors do ordain as follows: That Chapter 12 – Subchapter 100, entitled “Columbia County Zoning Ordinance” of the Columbia County Code of Ordinances, as passed by the Board of Supervisors on (date) is hereby amended and added thereto as follows:

Table 12.105.02(1): Allowed Uses in Agricultural and Open Space Zoning Districts

	Agricultural and Open Space Zoning Districts						
↓ LAND USES ↓ See Subsection 12.155 for detailed land use descriptions	Agriculture (A-1)	Agriculture and Open Space (AO-1)	General Agriculture (A-2)	Agriculture Business (A-3)	Agricultural Overlay (A-4)	Recreation (RC-1)	Subject to Use and Building Specific Standards in Specified Section(s)
...							
Utility, Communication, and Transportation Use Group							
...							
Small Wind Energy System	P	P	P	P	P	P	See Section 12.125.29 for details
Large Wind Energy System	P	P	P	P	P	p	See Section 12.125.30 for details
<u>Small Solar Energy Generating Facility</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Section 12.125.31</u>
<u>Large Solar Energy Generating Facility</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 12.125.32</u>
...							
Other Accessory & Temporary Uses and Structures							
...							

Proposed Amending Ordinance with notations for reference to Staff Analysis

	Agricultural and Open Space Zoning Districts						
↓ LAND USES ↓ See Subsection 12.155 for detailed land use descriptions	Agriculture (A-1)	Agriculture and Open Space (AO-1)	General Agriculture (A-2)	Agriculture Business (A-3)	Agricultural Overlay (A-4)	Recreation (RC-1)	Subject to Use and Building Specific Standards in Specified Section(s)
Small solar energy system Accessory solar energy generating system	P	P	P	P	P	P	Sections 12.125.02 and 12.130.02

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Table 12.110.02(1): Allowed Uses in Residential Zoning Districts

	Residential Zoning Districts				
↓ LAND USES ↓	Rural Residence (RR-1)	Single-Family Residence (R-1)	Multiple-Family Residence (R-2)	Manufactured/ Mobile Home Park (R-3)	Subject to Use and Building Specific Standards in Subsection 12.125
...					
Utility, Communication, and Transportation Use Group					
...					
Small Wind Energy System	C	C	C	C	See Section 12.125.29
Large Wind Energy Systems	C		C	C	See Section 12.215.30
Small Solar Energy Generating Facility	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	Section 12.125.31
Large Solar Energy Generating Facility	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Section 12.125.32
Other Accessory & Temporary Uses and Structures					Also subject to standards in Sec. 12.130
...					
Small solar energy system Accessory solar energy generating system	P	P	P	P	
...					

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Table 12.115.02(1): Allowed Uses in Commercial and Industrial Districts

↓ LAND USES ↓	Commercial and Industrial Zoning Districts					Subject to Use and Building Specific Standards in Subsection 12.125
	Light Commercial (C-1)	General Commercial (C-2)	Highway Interchange (C-3)	Light Industrial (I-1)	General Industrial (I-2)	
...						
Utility, Communication, and Transportation						
...						
Small Wind Energy System	P	P	P	P	P	See Section 12.125.29 for details
Large Wind Energy System	P	P	P	P	P	See Section 12.125.30 for details
Small Solar Energy Generating Facility	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	Section 12.125.31
Large Solar Energy Generating Facility	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Section 12.125.32
Other Accessory & Temporary Uses and Structures						Also subject to standards in Sec. 12.130
...						
Small solar energy system Accessory solar energy generating system	P	P	P	P	P	Sections 12.125.02 and 12.130. 02
...						

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SEC. 12.125.27 OTHER TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY, OR DRAINAGE USE IN AGRICULTURAL AND OPEN SPACE DISTRICTS.
See Staff Analysis #1

- (1) Within the Agricultural and Open Space zoning districts, such a use shall be permitted only where the Planning and Zoning Committee, following a public hearing and a visit of the proposed site(s), determines that:
 - (a) The use and its location in the district are consistent with the purposes of that district per Section 12.105.01(1).

31 ...

32 **SEC. 12.125.31 SMALL SOLAR ENERGY GENERATING FACILITY.**

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34 (1) **Purpose and Scope.** The purpose of this section is to adopt and incorporate the requirements of Wis.
35 Stat. § 66.0401 as a local ordinance and to establish local regulations on the installation and use of small
36 solar energy generating facilities that are authorized by and compliant with Wisconsin Statutes and that
37 serve to preserve or protect the public health or safety, do not significantly increase the cost of the system
38 or significantly decrease its efficiency, or allow for an alternative system of comparable cost or
39 efficiency. The provisions listed under this section are not intended to be a duplication of any Federal or
40 State requirement or to exceed that authority granted to Wisconsin counties.

41 (2) **Statutes, Regulations and Rules**

42 #2 (a) This section is subject to the provisions of the Wisconsin Statutes.

43 (b) Wis. Stat. § 66.0401 is adopted and incorporated by reference.

44 (3) **Definitions**

45 (a) “Conditional Use Permit” means a discretionary permit for a listed conditional use, granted by the
46 Columbia County Planning and Zoning Committee, under the notice and hearing procedures of Section
47 12.150.07 of the chapter, upon application by an owner, and to which various conditions of use may
48 be attached and adhered to by the applicant.

49 (b) “County” means Columbia County.

50 (c) “Department” means the Columbia County Planning and Zoning Department.

51 (d) “Department Director” or “Director” means the Director of the Columbia County Planning and Zoning
52 Department or the Department Director’s Designee.

53 (e) “Kilowatt” means a unit of power equal to one thousand watts.

54 (f) “Megawatt” means a unit of power equal to one million watts, especially as a measure of the output of
55 a power station.

56 (g) “Permit” means a zoning permit issued by the Columbia County Planning and Zoning Department
57 pursuant to this code.

58 (h) “Shared revenue utility payment” means payments made to counties and municipalities to off-set tax
59 exempt utility property. Payments are based on state calculations.

60 #3 (i) “Small Solar Energy Generating Facility” means but is not limited to, connected arrays of photovoltaic
61 panels, their supporting structures and/or mounting systems, the network of necessary electrical wires
62 and conduit (above and below ground), power poles, inverters, transformers, and supporting
63 substations. These facilities are designed for nominal operation at a nameplate capacity of less than
64 100 megawatts and does not meet the definition of an “accessory solar energy generating system”.

65 (j) “Zoning Permit” means written approval by the Planning and Zoning Department staff that is required
66 before commencing any development as defined in this chapter or before establishing, extending, or
67 changing any use on any parcel.

68 (k) “Cultural Resource” see 12.160: Definitions.

69 (l) “Environmental Analyses” means detailed localized review of environmental conditions (e.g.,: wetland
70 delineations, threatened and endangered species reviews, floodplain studies, navigability
71 determination, or other areas identified as environmental corridors within the County Comprehensive
72 Plan).

73 #4 (m) “Real Property Value Protection Agreement” means a written agreement that shall provide assurance
74 to the County and non-participating real property owners that there will be no Solar Energy System-
75 related real property value loss at the time of sale.

76 (4) Conditional Use Permit Requirements

77 (a) Permit Requirement. Small solar energy generating facilities are subject to Conditional Use Permit
78 approval in all Zoning Districts.

79 (b) Application Process. The application for a conditional use permit shall be processed in accordance
80 with the procedures set forth in Section 12.150.07.

81 (c) Application Requirements. The application for a Conditional Use Permit shall include the following
82 items as applicable to the project area:

83 1. A narrative of the proposed project, including a description of the subject property by metes and
84 bounds, address(es), parcel numbers, and any unique circumstances within the project area;

85 2. A site plan, which shall include a scalable drawing showing the location of all drives, entrances,
86 easement labels and locations, trails, and signs; panels, inverters, storage systems, and any other
87 planned infrastructure; vision clearance triangles; floodplain(s); wetland(s); and shoreland zone
88 boundaries;

89 3. A plan showing an overhead view of all existing and proposed landscaping on the site, including
90 the location, species, size at time of planting, and mature size for all new plantings;

91 4. Grading and drainage plan, showing existing and proposed surface elevations, and proposed
92 erosion control and stormwater management provisions;

93 5. Decommissioning plan and financial assurance;

94 6. Shared revenue utility payment tax projections and estimated property tax reductions to the
95 County;

96 7. Agreements, leases or other with documentation with affected landowners and/or communities
97 outlining any specific terms or conditions of development and assuring maintenance of land to be
98 owned or used for common purposes, including, but not limited to joint development agreements
99 and road maintenance agreements;

100 8. Supporting documentation addressing the review criteria in Section 12.125.31(4)(d);

101 9. Copies of all State, Federal, and other permits;

102 10. Any other documentation as identified by the Director or the Planning and Zoning Committee to
103 demonstrate compliance with State and Federal law.

104 #5 (n) If not already submitted, documentation evidencing cultural, archeological, and environmental

Proposed Amending Ordinance with notations for reference to Staff Analysis

- 105 analyses and associated permit authorizations as required by law;
- 106 **#6** 12. A complete list of neighboring parcels that have been notified within a two-mile radius of the
107 proposed projects boundaries;
- 108 **#7** 13. Environmental Analyses performed by a qualified third-party entity as outlined in Wis. Stat
109 1.11(2), that is reviewed and approved by the department;
- 110 **#8** 14. A water quality and soil quality assurance monitoring protocol;
- 111 15. An owner/operator, at the owner/operator's sole expense, shall maintain and provide the
112 Department at least annually with a maintenance log for the solar energy generating facility. The
113 log must contain the following information regarding any maintenance performed: 1) date and
114 time maintenance was performed; 2) nature of the maintenance performed; and 3) reason(s) for
115 the maintenance. The Department may retain such consultants or experts as it deems necessary to
116 assess and determine whether the solar energy system facilities are compliant and/or to assess
117 whether the solar energy system facilities are being maintained in good repair and operating
118 condition. An owner/operator shall pay for all costs incurred by the County in connection with
119 monitoring compliance during construction and assessing when solar energy facilities are
120 maintained in good repair and operational condition.
- 121 (d) **Review Criteria.** In addition to the criteria set forth in Section 12.150.07(4), the review for a
122 Conditional Use Permit shall address and consider the following:
- 123 **#9** 1. Setbacks from participating and non-participating real property lines, residential structures,
124 unique adjacent land uses, and roadways, assessed on a case-by-case basis for each parcel
125 affected, with a goal of not less than 50 feet from a non-participating property line and 500 feet
126 from a residence.
- 127 2. Beneficial vegetative screenings and maintenance requirements of said vegetative screening.
- 128 3. To the extent feasible and practical, the utilization of the land for both agriculture and electricity
129 generation among solar panels, possibly including but not limited to:
- 130 a. Planting and maintaining pollinator-friendly native plant species and reduced herbicide
131 applications.
- 132 b. Grazing of livestock, such as sheep, goats, and/or chickens; or
- 133 c. Planting of shade vegetables.
- 134 4. Mitigation to locally identified environmentally sensitive species and habitats by following:
- 135 a. Best construction practices to allow smaller wildlife access through fenced fields, and
136 b. Best construction practices to allow larger wildlife access natural movement around the fenced
137 fields.
- 138
- 139 **#10** 5. Best Management Practices (BMPs) associated with projects using battery storage.
- 140 6. Dust mitigation measures.
- 141 7. Cultural and environmental resources.

- 142 8. Stormwater runoff and erosion control mitigation measures, with a focus on assuring
143 implementation of mitigation measures;
- 144 9. Phasing of construction to limit area of disturbance.
- 145 10. Equipment related sound mitigation measures that keep noise generation at property line(s) at a
146 threshold of no greater than the industry standards outlined by the Public Service Commission,
147 possibly including but not limited to:
- 148 a. Relocating equipment further from receptors;
- 149 b. Noise cancellation using quieter equipment;
- 150 c. Sound shielding technology;
- 151 d. Sound filtering technology; and
- 152 e. Noise suppression and blocking with building enclosures or barrier walls.
- 153 **#11** 11. Maintenance and repair of damage to local roads due to project construction and/or maintenance to
154 the full extent of Wisconsin Statute 86.02 .
- 155 12. Soil drainage infrastructure, including mitigation efforts.
- 156 13. Surface water conveyance infrastructure, such as grassed waterways, including mitigation efforts.
- 157 14. Fire and hazard mitigation, including:
- 158 a. Battery-related fire suppression design and chemical release containment design;
- 159 b. Clean-up and monitoring of any fire-related chemical releases; and
- 160 c. Additional funding to affected fire districts directly impacted by the project area, including, but
161 not limited to equipment supplies and drills for local firefighting and emergency response
162 departments at owner/operator expense.
- 163 15. Replacement of lost property tax revenue, including school and special districts.
- 164 **#12** 16. Construction security bonds and project insurance.
- 165 **#13** 17. Decommissioning plan and financial assurance for project costs fully bonded prior to construction.
- 166 18. Stray voltage concerns.
- 167 19. Compliance with State and Federal laws, as may be applicable.
- 168 20. Other community benefits as may be relevant.
- 169 **#4** 21. Property Value protections in compliance with the purposes outlined in Wis. Stat. 59.69 for non-
170 participating real property owners within a 2-mile radius of the proposed Solar Energy System,
171 which may include a “Real Property Value Protection Agreement”.
- 172 (a) The applicant shall assure the County that there will be no loss in real property value within
173 two miles of the Solar Energy System. To legally support this claim, the applicant shall consent
174 in writing to a Real Property Value Protection Agreement as a condition of approval for the

175 Solar Energy System. This Agreement shall provide assurance to non-participating real
176 property owners near the Solar Energy System that they have some protection from Solar
177 Energy System-related real property value losses at the time of sale.

178 (b) Real Property Value Protection Plan. The Applicant guarantees that there will be no loss in real
179 property value within two miles of the Solar Energy System, due to the Solar Energy System.
180 Any real property owner(s) included in that area who believe that their property may have been
181 devalued due to the Solar Energy System may elect to exercise the following option:

- 182 (1) All appraiser costs are paid by the applicant from the Escrow Account. Applicant and the
183 property owner shall each select a licensed appraiser. Each appraiser shall provide a
184 detailed written explanation of the reduction, if any, in value to the real property
185 ("Diminution Value") caused by the proximity to the SEF. This shall be determined by
186 calculating the difference between the current Fair Market Value (FMV) of the real
187 property and what the FMV would have been at the time of exercising this option,
188 assuming no SEF was proposed or constructed,
- 189 (2) If the higher of the Diminution Valuations submitted is equal to or less than 25 percent
190 more than the other, the two values shall be averaged ("Average Diminution Value" •
191 ADV).
- 192 (3) If the higher of the Diminution Valuations submitted is more than 25 percent higher than
193 the other, then the two appraisers will select a third licensed appraiser, who shall present
194 to the applicant and property owner a written appraisal report as to the Diminution Value
195 for the real property. The parties agree that the resulting average of the two highest
196 Diminution Valuations shall constitute the ADV.
- 197 (4) In the case of items 2 or 3 above, the property owner may elect to receive payment from
198 Applicant of the ADV. applicants are required to make this payment within 60 days of
199 receiving said written election from the property owner."

200 (5) **Zoning Permit Requirements.**

201 (a) **Permit Requirement.** The owner must apply for and receive a zoning permit from the Department
202 before installing, constructing, or expanding any small solar energy generating facility.

203 (b) **Application Process.** The application for a zoning permit shall be processed in accordance with the
204 procedures set forth in Section 12.150.08.

205 (c) **Permit Fee.** The owner shall pay an application fee at the time the application for a small solar energy
206 generating facility is filed with the Department. Fees shall be based on cost of construction.

207 (d) **Permit Expiration.** A zoning permit issued by the Department expires if construction of the small
208 solar energy generating facility is not commenced within 24 months from the date of the permit, or if
209 the small solar energy generating facility is not installed and fully functioning within 12 months from
210 the date construction begins. A 24 month extension may be granted under 12.150.08(6).

211 (e) **Application Requirement.** The application for a zoning permit shall include the following items as
212 applicable to the project area:

- 213 1. A narrative of the proposed project, including a description of the subject property by metes and
214 bounds, address(es), parcel numbers, and any unique circumstances within the project area.
- 215 2. A site plan, which shall include a scalable drawing showing the location of all drives, entrances,
216 easement labels and locations, trails, and signs; panels, inverters, energy storage systems, and any
217 other planned infrastructure; vision clearance triangles; floodplain(s); wetland(s); and shoreland
218 zone boundaries.

Proposed Amending Ordinance with notations for reference to Staff Analysis

- 219 3. Supporting documentation addressing the review criteria in Section 12.125.31(4)(c) & (d) and
220 any other relevant update, if not already submitted.
- 221 (6) Additional Permitting Requirements. Additional permits and processes may be required under Chapter
222 12, as well as otherwise under the Columbia County Code of Ordinances.
- 223 (7) Operator Ownership Change. Notice shall be provided to the County for any change in ownership of the
224 small solar energy generating facility on or before the effective date of the change.
- 225 (8) Other Approvals. A copy of all necessary state and federal permits and approvals shall be submitted to
226 the Department within 90 days of receiving said authorizations.
- 227 (9) Postconstruction Filing Requirement. Within 90 days of the date a small solar energy facility
228 commences operation, the owner shall file with the Department an as-built description of the small solar
229 energy facility, an accurate map of the small solar energy facility showing the location of all infrastructure,
230 geographic information system information showing the location of said infrastructure, and current
231 information identifying the owner(s) and operator(s), including designated contact(s), of the small solar
232 energy facility.
- 233 (10) Battery Energy Storage System. If battery energy systems are included in the project, the following
234 considerations shall be made:
- 235 a. Setbacks to residential, business, municipal, school, or town structures, and drinking water systems,
236 which include both private and public.
- 237
- 238 1. A committee identified goal of 1,500 feet from residential, business, municipal, school, or town
239 structures, and 1,000 feet from a drinking water system is desired.
- 240
- 241 b. Separate containment enclosures that include the following goals:
- 242
- 243 1. The enclosure shall be capable of holding 150% of its total volume of water.
- 244
- 245 2. There shall be sufficient fireproofing for connecting electronic wires, protecting from one structure
246 to the next and from the battery energy storage system to the substation.
- 247
- 248 3. Each battery energy storage system container shall be labeled with a date of first usage via a
249 stamped metal nameplate with serial number.
- 250
- 251 4. Upon the end of its serviceable life or no more than seven consecutive years, whichever comes
252 first, the battery energy storage system container shall be removed from the site and recycled at
253 battery owner/operator's expense.
- 254
- 255 5. The owner/operator shall give an annual report to the Department documenting which batteries are
256 near the end of their lifecycle, including current physical location of the battery and the serial
257 number.

258 SEC. 12.125.32 LARGE SOLAR ENERGY GENERATING FACILITY.

- 259 (1) Purpose and Scope. The purpose of this section is to adopt and incorporate the requirements of Wis.
260 Stat. § 66.0401 as a local ordinance and to establish local regulations on the installation and use of large
261 solar energy generating facilities that are authorized by, compliant with, Wisconsin Statutes and that
262 serve to preserve or protect the public health or safety, do not significantly increase the cost of the system
263 or significantly decrease its efficiency, or allow for an alternative system of comparable cost or

264 efficiency. The provisions listed under this section are not intended to be a duplication of any Federal and
265 State requirement or to exceed that authority granted to Wisconsin counties.

266 **(2) Statutes, Regulations and Rules**

267 **#2 (b) This section is subject to the provisions of the Wisconsin Statutes.**

268 (c) Wis. Stat. § 66.0401 is adopted and incorporated by reference.

269 **(3) Definitions**

270 (a) “Conditional Use Permit” means a discretionary permit for a listed conditional use, granted by the
271 Columbia County Planning and Zoning Committee, under the notice and hearing procedures of Section
272 12.150.07 of the chapter, upon application by an owner, and to which various conditions of use shall
273 be attached and adhered to by the applicant.

274 (b) “County” means Columbia County.

275 (c) “Department” means the Columbia County Planning and Zoning Department.

276 (d) “Department Director” or “Director” means the Director of the Columbia County Planning and Zoning
277 Department or the Department Director’s Designee.

278 (e) “Kilowatt” means a unit of power equal to one thousand watts.

279 (f) “Megawatt” means a unit of power equal to one million watts, especially as a measure of the output of
280 a power station.

281 (g) “Permit” means a zoning permit issued by the Columbia County Planning and Zoning Department
282 pursuant to this code.

283 (h) “Shared revenue utility payment” means payments made to counties and municipalities to off-set tax
284 exempt utility property; payments are based on state calculations.

285 **#3 (i) “Large solar energy generating facility” means, but is not limited to, connected arrays of photovoltaic**
286 panels, their supporting structures and/or mounting systems, the network of necessary electrical wires
287 and conduit (above and below ground), power poles, inverters, transformers, and supporting
288 substations, or a concentrated mirror thermal energy generating facility and its respective components.
289 These facilities are designed for nominal operation at a nameplate capacity of 100 megawatts or more.
290 A Certificate of Public Convenience and Necessity issued by the Wisconsin Public Service
291 Commission is typically associated with these facilities.

292 (j) “Zoning Permit” means written approval by the Planning and Zoning Department staff that is required
293 before commencing any development as defined in this chapter or before establishing, extending, or
294 changing any use on any parcel.

295 (k) “Cultural Resource” see 12.160: Definitions.

296 (l) “Environmental Analyses” means detailed localized review of environmental conditions (e.g.,: wetland
297 delineations, threatened and endangered species reviews, floodplain studies, navigability
298 determination, or other areas identified as environmental corridors within the County Comprehensive
299 Plan).

300 **(4) Zoning Permit Requirements**

Proposed Amending Ordinance with notations for reference to Staff Analysis

- 301 (a) Permit Requirement. The owner must apply for and receive a zoning permit from the Department
302 before installing, constructing, or expanding any large solar energy generating facility.
- 303 (b) Application Process. The application for a zoning permit shall be processed in accordance with the
304 procedures set forth in Section 12.150.08.
- 305 (c) Permit Fee. The owner shall pay an application fee at the time the application for a large solar energy
306 generating facility is filed with the Department. Fees shall be based on cost of construction.
- 307 (d) Permit Expiration. A zoning permit issued by the Department expires if construction of the small
308 solar energy generating facility is not commenced within 24 months from the date of the permit, or if
309 the small solar energy generating facility is not installed and fully functioning within 12 months from
310 the date construction begins. A 24 month extension may be granted under 12.150.08(6).
- 311 (e) Standards for Review. The standards for review of a permit application for a large solar energy
312 generating facility shall be consistent with Wis. Stat. 66.0401, as well as Wis. Stat. 59.69. not be more
313 restrictive than the Public Service Commission approved plan.
- 314 (f) Application Requirement. The application for a zoning permit shall include the following items, as
315 may be applicable:
- 316 1. A copy of the Wisconsin Public Service Commission (PSC) authorization, in the form of a
317 Certificate of Public Convenience and Necessity, and a copy of the final application packet and
318 documentation submitted to the PSC for approval;
- 319 2. A narrative of the proposed project, including a description of the subject property by metes and
320 bounds, address(es), parcel numbers, and any unique circumstances within the project area, as
321 may have been identified during PSC review;
- 322 3. A site plan, which shall include a scalable drawing showing the location of all drives, entrances,
323 easement labels and locations, trails, and signs; panels, inverters, energy storage systems, and any
324 other planned infrastructure; vision clearance triangles; floodplain(s); wetland(s); and shoreland
325 zone boundaries;
- 326 4. If not already submitted, documentation evidencing cultural, archeological, and environmental
327 analyses and associated permit authorizations as required by law;
- 328 #6 5. A complete list of neighboring parcels that have been notified within a two-mile radius of the
329 proposed projects boundaries;
- 330 #14 6. Shared revenue utility payment tax projections; and projections and estimated property tax
331 reductions to the County;
- 332 #15 7. Any updates submitted to the PSC as applicable to these requirements at the time of submittal and
333 during the lifetime of the project. All components must be listed by the Underwriters Laboratory.
- 334 (5) Additional Permitting Requirements. Additional permits and processes may be required under Chapter
335 12, as well as otherwise under the Columbia County Code of Ordinances.
- 336 (6) Operator Ownership Change. Notice shall be provided to the County for any change in ownership of
337 the large solar energy generating facility 30 days prior to the effective date of the change, and contact
338 information of the new owner shall be included with the notice.

- 339 (7) Other Approvals. A copy of all necessary state and federal permits and approvals shall be submitted to
 340 the Department within 90 days of receiving said authorizations.
- 341 (8) Postconstruction Filing Requirement. Within 90 days of the date a large solar energy facility
 342 commences operation, the owner shall file with the Department an as-built description of the large solar
 343 energy facility, an accurate map of the large solar energy facility showing the location of all
 344 infrastructure, geographic information system information showing the location of said infrastructure,
 345 and current information identifying the owner(s) and operator(s), including designated contact(s), of the
 346 large solar energy facility.

347 **SEC. 12.130.02 ACCESSORY USES AND STRUCTURES, DEFINITIONS AND GENERAL**
 348 **STANDARDS.**

349 ...

351 **(5) Accessory Solar Energy Generating System.** An photovoltaic energy system that converts solar energy
 352 **#16** to usable thermal, mechanical, chemical, or electrical energy, where such solar energy system is accessory
 353 to the principal use of the land (e.g., solar panels providing energy for a dwelling on the same lot).
 354 Accessory solar energy generating systems are not intended for use as a public utility and have a footprint
 355 of not more than two acres of land, excluding rooftop mounted solar energy systems. Such uses shall be
 356 subject to the following performance standards:

- 357 (a) Rooftop, ground-mounted, and building-mounted solar energy systems shall comply with the height
 358 limits and minimum required yards for principal structures.
- 359 (b) Within the A-1 district, such systems shall be subject to the limitations associated with agricultural
 360 accessory structures per subsection (3).

361 ...

362
 363 **Table 12.130.04(1): Permitted Intrusions into Minimum Setback for Accessory**
 364 **Structures**
 365 **#17**

Types of Accessory Structures	Accessory Structure May Intrude into Normal Minimum Required Setback within...				Other Limitations
	Front Yard	Street Side Yard	Interior Side Yard	Rear Yard	
...					
<u>Small solar energy systems</u> <u>Accessory solar energy generating system</u>				Yes	<u>Ground mounted array</u> must be a minimum of <u>25-40</u> feet from all property lines
...					

366
 367 **SEC. 12.140.03 MEASUREMENTS AND EXCEPTIONS.**

368 **Table 12.140.03(1): Permitted Intrusions of Building Components into Minimum**
 369 **Required Setbacks**

Proposed Amending Ordinance with notations for reference to Staff Analysis

	Normal Minimum Required Setback in which Building May Intrude				Other Limitations
	Front Yard	Street Side Yard	Interior Side Yard	Rear Yard	
...					
Attached mechanical, solar and wind energy equipment			✓	✓	Projecting no more than 3 feet into minimum required setback.
<u>Small and Large solar energy generating facility</u>			<u>✓</u>	<u>✓</u>	<u>Fencing, arrays, and other facility components may cross internal property line boundaries within the project area for the duration of the project.</u>

370

371 **Sec. 12.155.07 Utility, Communication and Transportation Use Group.**

372

373 **(3) Public utility or service.** Includes all county, town, state, and federal facilities; emergency service
 374 **#18** facilities; and public utilities such as, but not limited to wastewater treatment plants; utility substations;
 375 dams; water towers; transmission lines; fire towers; wind energy systems, solar energy generating facilities,
 376 and similar land uses. Utilities with a certification of public convenience and necessity issued by the Public
 377 Service Commission are not subject to this chapter.

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Chris Polzer, Chair
 COLUMBIA COUNTY BOARD OF SUPERVISORS

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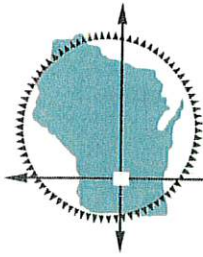
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Susan M. Moll
 COLUMBIA COUNTY CLERK

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392



COLUMBIA COUNTY

Planning and Zoning Department

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112 E. Edgewater Street
Portage, WI 53901

Solar Ordinance: Staff Analysis and Alternative Options of Draft Committee Amending Ordinance 9-20-23 Corrected

Planning & Zoning Committee • November 7, 2023

This Staff Analysis was completed by Planning & Zoning staff and Corporation Counsel. The intent of this review is to provide implementation guidance and legal input.

1. **Staff Analysis:** requiring a site visit for a specific use is arbitrary, distinctive, and misleading, especially if we do not typically do them, nor require them for other uses. Staff recommendation strikes the requirement from 12.125.27 and allows for committee flexibility to view *any* item on an agenda added under Section 12.150.03.

SEC. 12.125.27 OTHER TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY, OR DRAINAGE USE IN AGRICULTURAL AND OPEN SPACE DISTRICTS.

- (1) Within the Agricultural and Open Space zoning districts, such a use shall be permitted only where the Planning and Zoning Committee, following a public hearing ~~and a visit of the proposed site(s)~~ determines that:
 - (a) The use and its location in the district are consistent with the purposes of that district per Section 12.105.01(1).

...

Sec. 12.150.03 Planning and Zoning Committee—Description and Roles

...

(1) **Duties and responsibilities.** In addition to the duties and responsibilities specified elsewhere under the Columbia County Code of Ordinances and the Standing Rules of the Columbia County Board, the Planning and Zoning Committee shall have the following specific duties and responsibilities pertaining to this chapter:

...

~~(e)~~ May view the site of any agenda item(s) of interest the day of the public hearing within normal business hours.

~~(e)(f)~~ Act on other development-related requests as may be specified under this subchapter or other subchapters within Chapter 12.

~~(f)(g)~~ Employ or contract for the services of such professional planning technicians and staff as are considered necessary for the discharge of its duties and responsibilities.

~~(g)(h)~~ Advise the Zoning Administrator and Planning and Zoning Director on enforcement of the provisions of this chapter and on other matters as requested by the Zoning Administrator or Planning and Zoning Director.

~~(h)(i)~~ Direct the preparation of the County Development Plan under Wis. Stats. § 59.69 the County Comprehensive Plan under Wis. Stats. § 66.1001 and the County Farmland Preservation Plan under Wis. Stats. §§ 91.10 to 91.20.

**Staff Analysis document with proposed options for
Amending Ordinance**

~~(j)~~(i) Appoint a chairperson who shall serve a two-year term.

~~(j)~~(k) Recommend fees for various permits and approvals required and allowed under this chapter.

~~(k)~~(l) Adopt rules and procedures as may be advisable in carrying out its duties.

~~(l)~~(m) Exercise such other duties and responsibilities as may be directed by the County Board of Supervisors.

2. **Staff Analysis:** Change “provisions of the Wisconsin Statutes” to “provisions of Wisconsin Law” to be more inclusive of other overarching legislation or Administrative Code.
3. **Staff Analysis:** Staff recommends adding, “This includes facilities which directly convert and transfer or store solar energy into thermal or electrical energy.” This language clarifies that these systems may include battery energy storage systems.
4. **Staff Analysis:** As presented, the County would become a participant in private party contractual negotiations. Determining which value to accept will be difficult to do and can change over time. The County would become liable for enforcing these private contracts, which is not something that local governments typically do. Staff recommends replace all language under Item 21 with, “Property value impacts associated with the project, and potential to offset said impacts with landowner agreements.” This allows for a case-by-case agreement to be made with the surrounding landowners. As part of this recommended revision, the definition, “Real Property Value Protection Agreement” should also be removed.
5. **Staff Analysis:** Remove “If not already submitted”. This is redundant. All items in this subsection should be considered in an application packet.
6. **Staff Analysis:** By requiring a 2-mile radius, this requires an arbitrary and distinctive requirement that is not enforced or required for other uses. Staff recommends replacing this with, “A complete list of neighboring parcels that have been notified”.
7. **Staff Analysis:** Wis. Stat. 1.11(2) is not applicable nor enforceable by local government. This section is only applicable for agencies of the State. Furthermore, environmental analyses are already required under 12.125.31(4)(c)11. Staff recommends striking this item and add, “by a third-party entity” after “analysis” in Item 11.
8. **Staff Analysis:** Staff recommends changing this item to, “Anticipated water and soil quality impacts and any monitoring protocols to be implemented”. The revised language adds clarity to this consideration.
9. **Staff Analysis:** Staff recommends revising this language as follows,

1. Setbacks from participating and non-participating property lines, residential structures, unique adjacent land uses, and roadways, assessed on a case-by-case basis for each parcel affected.

a. A Committee identified goal of 50 feet from non-participating property lines and 500 feet from residential structures is desired.

This language provides guidance on what is desirable by the County, while also making it clear that it is not a mandate, knowing that we cannot strictly enforce any specific setback number.

10. **Staff Analysis:** Staff recommends revising this item to incorporate references to battery energy storage system language. Revised language is as follows, “Best management practices and considerations as noted in Section 12.125.31(10) associated with projects using battery storage.”

Staff Analysis document with proposed options for
Amending Ordinance

Section 12.125.31(10) was added to incorporate the previous battery energy storage system language identified by the Joint Committee and amended in line with the goals-oriented language preferred and reviewed by Staff and Counsel.

11. **Staff Analysis:** Replace with, "Maintenance and repair of damage to local roads due to project construction, often in the form of a Road Maintenance Agreement." This language is preferred because the reference to 86.02 is not necessary. A road maintenance agreement would consider a before and after aspect which is required for any potential future litigation. It would also spell out maintenance requirements, whereas 86.02 strictly references damage. Revised language makes this consideration clearer.
12. **Staff Analysis:** Replace with, "Financial assurance during the construction phase in the form of a surety bond, letter of credit, escrow account, reserve fund, parent guarantee or other suitable financial mechanism." This clarifies the various means to secure said financial assurance.
13. **Staff Analysis:** Replace with, "Decommissioning plan and financial assurance for project costs. The applicant will post a form of financial security such as a surety bond, letter of credit, escrow account, reserve fund, parent guarantee or other suitable financial mechanism, prior to the commencement of construction to include the total cost of decommissioning of the solar generation portion and the battery energy storage portion of the solar project at the end of its useful life." This language is consistent with Public Service Commission approvals and helps clarify all the various means to secure financial assurance.
14. **Staff Analysis:** Staff recommends revising this language to, "Shared revenue utility payment tax projections and estimated property tax reductions to the County" to remain consistent with the requirement set forth in 12.125.31(4)(c)6.
15. **Staff Analysis:** Staff recommends revising this language to, "Any updates submitted to the Public Service Commission as applicable to these requirements." Per staff communication with PSC, they allow for components to be listed by entities other than the Underwriters Laboratory. Furthermore, the county cannot be more restrictive than PSC, and must accept whatever they accept.
16. **Staff Analysis:** Current language noting 2-acre footprint is ambiguous and can vary based on the applicant and/or reviewer. Staff recommends replacing this with, "Accessory solar energy generating systems are not intended for use as a public utility and generate less than 1,000 kilowatts (1 megawatt)." Rooftop solar should be included within this section as well, as it is considered an accessory solar system, and is included in the setback intrusions table following this section.
17. **Staff Analysis:** Staff recommends leaving the "Other Limitations" language as it currently reads in the ordinance, "Must be a minimum of 10 feet from all property lines". The existing language simply allows accessory solar to be 10 feet from a rear property line only in the instances where it is less than 10 to the house/principal structure due to the nature of how regular setbacks are applied throughout the ordinance for accessory structures.
18. **Staff Analysis:** Staff recommends adding "battery energy storage systems" to this subsection, so that if there is a standalone battery energy storage system proposed, under 100 megawatts, that there is a defined use for it.

