

***Recommended Amendments to
As Introduced 9/27/23 Solar Ordinance
For consideration at 11/8/23 Parish Council meeting
Prepared 11/3/23***

At a regular meeting of the St. James Parish Council, State of Louisiana, held on the ____ day of _____, 2023, the following entitled ordinance was introduced by Councilman _____ and seconded by Councilman _____, laid over for publication of notice of Public Hearing and ordered filed with the Secretary for public inspection.

**PROPOSED ORDINANCE 23-_____
ST. JAMES PARISH COUNCIL**

AN ORDINANCE AMENDING SECTIONS 82-25(e), 82-25(h), AND 30-53(d) OF THE ST. JAMES PARISH CODE OF ORDINANCES; ENACTING NEW SECTION 82-26 PROVIDE SOLAR ENERGY FARM FACILITY STANDARDS FOR DEVELOPMENT; AND REPEALING SECTION 82-25(o) REGARDING LIMITATIONS ON COMMERCIAL SOLAR FACILITIES.

WHEREAS, the St. James Parish Council and Administration executed a contract with South Central Planning and Development (SCPDC) on August 3, 2022 conducting a Solar Panel Farm Evaluation and make recommendations; and,

WHEREAS, SCPDC has submitted the requested plan and recommendations to the Parish Council and Administration on January 30, 2023; and,

WHEREAS, the St. James Parish Government has examined, reviewed, and considered these recommendations based upon the findings of the Solar Panel Farm Evaluation, and has received input from multiple sources, including from representatives of the solar industry; now

THE ST. JAMES PARISH COUNCIL HEREBY ORDAINS that the St. James Parish Code of Ordinances is hereby amended as shown in Exhibit A hereto and make a part thereof. Unless otherwise stated, deletions are shown as strikeout text and additions are shown as underlined text.

Exhibit A
Ordinance 23-_____

Part 1: Sec. 82-25(e) of the St. James Parish Code of Ordinances is amended as follows:

- (e) Approval of uses not listed as allowable uses. Uses not specifically listed as allowable in a use category in subsection (c) of this section are prohibited unless the planning commission considers the use in accordance with subsections (g), (h) and (i), and the parish council approves the use. Any such recommendation or approval shall be made on a case-by-case basis. In addition to the other provisions of this subsection, Solar Energy Farm Facilities shall be evaluated in accordance with Sec. 82-26. The planning commission shall not recommend a use for approval, and the parish council shall not approve a use, under this subsection unless it makes affirmative findings that there is a compelling public benefit, that the use is compatible with surrounding uses and adverse impacts of the use are inconsequential; or that approval is required as a matter of constitutional imperative or other vested legal right superior to this section. Any person aggrieved by a decision of the parish council under this subsection may appeal to a court of competent jurisdiction within 30 days of the decision of the parish council.

Part 2: Sec. 82-25(h) of the St. James Parish Code of Ordinances is amended by adding the following subsection to Sec. 82-25(h):

- (5) In addition to the other provisions of this subsection, Solar Energy Farm Facilities shall be evaluated in accordance with Sec. 82-26.

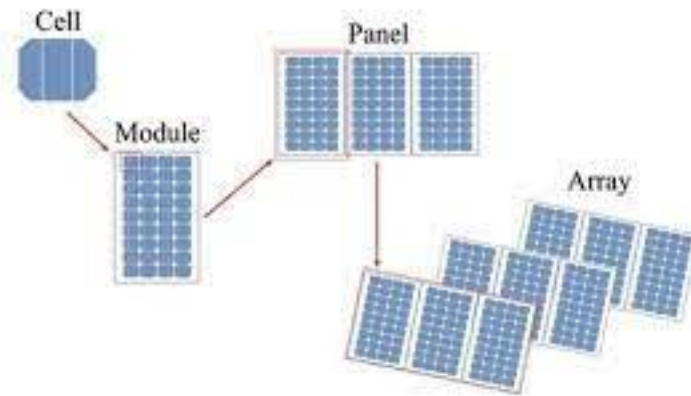
Part 3: Sec. 82-26 of the St. James Parish Code of Ordinances is hereby enacted in its entirety to read as follows:

Sec. 82-26.-Solar Energy Farm Facility Standards for Development

- (a) **Purpose:** The purpose of this ordinance is to set minimum standards and requirements for the permitting and operation of SEFFs in ~~the Parish of~~ St. James Parish.
- (b) **Applicability:** This ordinance applies to all Solar Energy Farm Facilities constructed in the parish, ~~and then operated in the Parish. As used in the Code of Ordinances,~~ Solar Energy Farm Facilities are defined as:

power generating facilities constructed on immovable property for the purpose of producing photovoltaic electricity, solar heated fluids, or solar thermal electricity intended for distribution and sale through the power grid. The term shall not include residential or commercial facilities for the production of electricity or other solar power that is produced on or adjacent to the site where it is directly consumed or where the residential or commercial facility is connected to the power grid on a net-metering basis where the beneficiary of the net metering is the residential or commercial facility owner or occupant.

For convenience, Solar Energy Farm Facilities shall be referred to herein as “SEFFs.” Components of a SEFF shall be identified in accordance with the following schematic:



As used in this section, the following terms shall have the meanings indicated:

Cell: a photovoltaic (PV) cell, commonly called a solar cell, is a single nonmechanical device that converts sunlight directly into electricity, and is the fundamental component from which larger units of a SEFF are assembled, and are typically grouped into modules.

Panel: a collection of cells or modules assembled as a pre-wired, field-installable unit that mounts to the structural components of a SEFF, typically with dimensions of approximately 4' x 7'.

- (c) The Parish Permitting and Planning office is responsible for the initial evaluation of all SEFF permit applications to ensure the development is constructed and operated in compliance with the requirements of this ordinance. SEFF permit applications shall be evaluated and processed in accordance with Secs. 82-25(e) or (f) as applicable. No SEFF permit will be issued unless the application conforms to these requirements.
- (d) **Lot size:** Minimum lot size of the facility shall be twenty (20) contiguous acres or greater.
- (e) **Height:** all solar panel structures and supporting equipment shall be restricted to a maximum height of sixteen (16) feet. Medium and low voltage collection lines shall not exceed the height of more than eight (16) feet above the ground and comply with all applicable codes. Meteorology (met) towers necessary for monitoring of the SEFF shall not exceed 50 feet in height. These height restrictions shall not apply to interconnection equipment (i.e., collector substation, switchyard, high voltage transmission lines) to ensure public safety and to ensure compliance with electrical safety codes and standards.
- (f) **Setback:** All solar panels, support structures, inverters, transformers and mechanical equipment within the SEFF shall be setback at least the greater of:
 1. 500' from any occupied residence or formal place of worship;
 2. 500' from the boundary of any nearby area designated for Residential Growth or Residential/Future Industrial;
 3. 500' from the perimeter boundary of the SEFF if the facility is permitted in a Residential Growth or Resident/Future Industrial area; or
 4. 100' from a public road right of way or adjacent property line.

As an exception to the foregoing, a setback shall not be required from an adjacent area designated as Industrial.

Agriculture uses are permitted within the setback areas.

~~a minimum of one hundred (100) feet from a public road right of way and property lines. If the adjoining property has an existing occupied residence or formal place of worship then all solar panels, support structures, inverters, transformers, and mechanical equipment shall be setback a minimum of five hundred (500) feet from the outer wall of said structure(s). These requirements are not applicable to adjoining participating landowners.~~

- (g) **Fire Protection:** Areas of the SEFF susceptible to fire shall be equipped with a fire monitoring system. The system shall automatically notify off-site emergency personnel listed in the facility's Emergency Response Plan. These efforts will be coordinated with the local fire district. The facility will be designed and built to the National Electrical Safety Code (NESC) guidelines. The facility shall comply with all applicable codes and regulations standards for fire protection and shall be designed and constructed utilizing engineering controls to limit the spread of fire.

The facility will comply with Chapter 30 of the St. James Parish Code of Ordinances, Civil Emergencies, including Sec. 30-55, Defensive emergency protective measures.

- (h) **Safety/Access:** A minimum eight (8) foot security fence shall be placed around the perimeter of the Facility SEFF to prevent unauthorized access. Fencing shall be agricultural-style woven wire fencing, chain link, or an alternative providing an equal or better measure of security and safety, as approved by the planning commission. Perimeter barbed wire fencing is not required, unless state or federal codes or regulations require otherwise. The fencing shall encompass the perimeter of facility inside of the vegetative buffer required under subsection (m). Lock boxes and keys to the facility shall be stored at locked entrances for emergency access. Entrances shall be equipped with lights for nighttime illumination.
- (i) **Signage:** One or more signs shall be affixed to the fence at the main entrance identifying the owner of the facility and emergency contact information.
- (j) **Emergency Services:** A copy of the electrical schematic and site plan shall be submitted to the Fire Chief of the Fire District. The owner or operator shall develop an emergency plan and provide it the Fire Chief for approval prior to commencing commercial operations. emergency plans for the ~~Solar Farm SEFF~~ will be updated (or confirmed as current) in writing to the Fire Chief by March 1 of each year, and shall be reviewed annually by the Fire Chief, prior to April 1 of each year.
- (k) **Noise:** The SEFF shall not exceed fifty (50) A-weighted decibels (dBA) or five (5) dBA over existing ambient levels, whichever is greater, as measured at the facility's immovable property boundary(s) while the facility is in operation. A noise analysis demonstrating compliance with this noise standard shall be provided with the application. The study shall be conducted in conformance with American National Standard ANSI/ASA S1.13-2020: Measurement of Sound Pressure Levels in Air (as supplemented and updated as an American National Standard), and shall be completed by an independent third party.
- (l) **Maintenance:** The owner or operator of the SEFF shall maintain the SEFF in good condition. This should include, without limitation, painting, structural repairs, vegetation control, non-public roads, perimeter fencing and locks, perimeter landscaping, and integrity of security equipment.
- (m) **Landscaping:** Prior to commencing construction of the SEFF, The SEFF shall have installed a perimeter landscaping buffer shall be planted (but with allowances for construction ingress and egress). The buffer shall be designed and certified by a registered Landscape Architect to create that creates an opaque vegetative "hedge" within ~~5-2~~ years of ~~facility~~ commercial operation along all property lines that are adjacent to public roads, highways and existing occupied residences with in five hundred (500) feet of the ~~SEFF~~ Facility. The vegetative perimeter shall consist of trees, foliage, bamboo, etc. such that the facility equipment is concealed from public view. Vegetation

shall be maintained for the duration of the SEFF's operation. The planning commission may require visual screening with fabric or solid fencing where special circumstances related to adjacent occupied structures warrant in perpetuity of the Facility. Should the applicant require any divergence from this requirement, it shall be called out in the SEFF Permit Application and reasoning for said divergence for consideration by the Permitting and Planning Office.

(n) **SEFF Permit Application:** The following information shall be submitted to the St. James Parish Permit Office for each proposed SEFF ~~Facility~~, or an addition to an existing SEFF facility.

1. **Facility description and rationale:** Identify the name of the facility, name(s) of all owner(s), and ~~LA Licensed~~ engineers, surveyors, other professionals and contractors to be engaged in the design and construction of the facility, along with a description of their licensing or professional credentials. The type, size, rated power output, performance, safety and noise characteristics of the proposed system should be identified.
2. **Permits:** The SEFF shall not begin delivering power in commercial quantities to the electrical grid until all required permits from local, state, and federal level have been obtained. A list of permits already obtained and permits anticipated to be obtained along with a timeline to obtain said permits shall be provided with the SEFF Permit Application.
3. **Lease:** If the immovable property site of the facility is leased, the facility owner or operator shall submit a copy of the recorded notice of lease (or similar instrument), which shall contain the following: (a) a declaration that the property is leased and the names and addresses of the lessor and lessee; (b) an immovable property description of the leased property and size of the leased property; (c) the date of the lease; (d) its term and the provisions of any extensions and renewals of the term provided for in the agreement ~~of the lessor to transfer all or any part of the leased premises; and~~ (e) if a sublease, a. The notice shall contain reference to the recordation information of the primary lease of notice of lease that is subleased; ~~and (f) the Notice of Lease must be signed by the lessor and lessee of the lease or sublease. The Facility owner or operator shall file a Notice of Lease in the Parish's conveyance records and shall provide a copy of the recorded Notice of Lease to the Permit Office.~~
4. **Economic Impact:** The facility owner or operator shall submit a report detailing the estimated financial economic impact to the Parish over the entire life of the SEFF. This report shall be prepared by a qualified third party. The economic report shall fully disclose the underlying data, methods of analysis, and other statistical information to support the report's conclusions. Any economic modelling utilized in preparing the report shall be made available to the parish, upon request, for verification. The permit office may retain the services of a consultant to review this report.
5. **Boundaries:** Identify all immovable property boundaries and actual dimensions upon which the SEFF will be located, including total acreage, with bearing and distances. Identify on same plat the names and addresses of all adjacent property owners.
6. **Site Plan:** A site plan shall be submitted showing streets, circulations, driveways, service building, easements, arrangements and locations of solar panels and all systems and equipment on the immovable property. Include the location of all facility signage, including warning signage. Site plan shall illustrate all FEMA Flood Zones and designated Base Flood Elevations (BFE's) within the facility with all buildings being located at or above this BFE. Racking that places panels and pertinent electrical equipment above the base flood elevation, or utilizes suitable safety shutoff systems in the event of flood is permitted in FEMA flood zones.
7. **~~Analysis of Onsite Traffic~~ Transportation Management:** A traffic impact analysis shall be performed, and to include a transportation plan to mitigate traffic impacts, if any are identified. The traffic impact analysis shall consider Provide an estimate of the number of temporary construction jobs and the numbers of permanent jobs, ~~including job titles~~, associated with the facility. ~~This information must~~ The traffic impact analysis shall be submitted with the DOT Driveway permit if along a state highway ~~State Hwy.~~ The application shall include a dust control component to mitigate the traffic impact indicated by the analysis, and shall provide for limestone, hard surface, or similarly durable materials on access roads to all gates.

8. **Visual Impacts:** Demonstrate the visual impact of the proposed SEFF using renderings and drawings with the consideration of the vegetative buffering. Renderings shall be provided to illustrate the visual appearance of the facility from relevant public roads and from areas of existing occupied residential or commercial development.
9. **Wildlife:** Submit a report summarizing the potential effects of the facility on wildlife and endangered species in the area. This report must be prepared by qualified third-party consultant with expertise in wildlife management and environmental studies. To the extent that a proposed facility will impact a natural wildlife habitat, the report shall comply with the March 20, 1996 U.S. Fish and Wildlife Service "Habitat Evaluation Procedures," Publication 870 FW 1 (as supplemented and updated).
10. **Environmental and Health Safety Standards.** All applicable environmental, health and safety regulations and standards shall be complied with during construction and operation of the facility in order to protect the public health and the environment.
11. **Elevation:** Provide an immovable property elevation profile that includes the immovable property contours and a topography survey showing elevation contours and drainage. The profile shall be prepared and sealed by a registered professional engineer or surveyor.
12. **Drainage:** A hydrologic modification impact analysis shall be submitted to ensure that the SEFF does not adversely affect other properties or waterways adjacent to the SEFF, and shall comply with the following:
 - (a) The hydraulic analysis shall be prepared by a registered Professional Engineer.
 - (b) The analysis shall demonstrate that the post-construction storm water runoff will not exceed the pre-construction runoff at any point on the site's perimeter.
 - (c) The analysis shall evaluate the impact of the facility on areas upstream and downstream of the facility and demonstrate that neither will suffer adverse impacts.
 - (d) Any interior drainage features, or drainage facilities required outside of the site perimeter, shall be designed and constructed in accordance with the parish subdivision regulations in Chapter 102 of the St. James Parish Code of Ordinances.
13. **Solid and Hazardous Waste:** Identify solid waste or hazardous waste that will be generated by the SEFF-Facility. The application shall include a plan for spill prevention, clean-up and disposal of obsolete materials, fuels, oils and hazardous wastes, as well as collection and storage methods for solid waste generated by the SEFF-Facility.
14. **Wind:** Provide an analysis of the solar equipment's ability to withstand hurricane sustained winds and provide evidence that the facility racking is designed and constructed either in accordance with Minimum Design Loads and Associated Criteria for Buildings and Other Structures, ASCE 7-16 (as supplemented) published by to withstand windspeed equal to or greater than the American Society of Civil Engineering, or in accordance with the Louisiana State Uniform Construction Code in effect at the time of SEFF construction, whichever results in the stronger structural standard-Wind Speed 7-16 Risk Category 1 standards.
15. **Lighting:** Provide lighting plans showing all lighting within and on the perimeter of the facility.
16. **Transportation Plan:** Provide an access plan for both the construction and operation phase of the facility. The plan must show proposed facility service road ingress and egress access onto the primary and secondary routes and the layout of the facility service road system.
17. **Vegetative Maintenance Plan:** Submit a plan for the upkeep and maintenance of the vegetation in compliance with Sec. 82-26(m).
18. **Public Safety:** Submit a copy of the Emergency Response Plan to Parish Director of Homeland Security and Emergency Preparedness in compliance with Chapter 30 of the Code of Ordinances. This code indicates "Whereby sole dependance on local fire departments and public employee's emergency responders are not the primary responders and that independent fire/emergency responders must be secured by contract to perform" these services.

- 19. Sound Limitations:** Identify anticipated noise levels at the fence line of the facility when construction is complete and when in operation.
- 20. Magnetic Field Limitations:** Identify anticipated magnetic field levels in mG at various distances from representative solar panels, inverters, and medium voltage transmission lines.
- 21. Telecommunications Interference:** Identify electromagnetic fields and communications interference to be generated by the facility when construction is complete and when the facility is in operation.
- 22. Solar Panel Angles:** Submit a vehicular glare analysis on the layout, mounting and movement of the solar panels and demonstrate that the glare will be minimized and will interfere with vehicular traffic. The glare analysis methodology shall be consistent with that described in Ho, C. K., Ghanbari, C. M., and Diver, R. B., 2011, Methodology to Assess Potential Glint and Glare Hazards, as published in the ASME Journal of Solar Engineering, Vol. 133, August 2011. Glare impacts must fall within the “Low Potential for After-image” region shown in Figure 2 of that publication.
- 23. Aviation Analysis:** Submit an aviation glare analysis developed by a qualified third-party contractor showing any potential aviation glare hazards that would arise from the facility and effect on local airports and/or flightpaths. The aviation analysis shall be performed in accordance with Federal Aviation Administration policy related to solar systems, published on May 11, 2021 at 86 FR 25801, as updated but subsequently issued policies in force at the time an application is submitted.
- 24. Life of the Facility and Final Reclamation:** Submit a decommissioning and final immovable property reclamation plan (“Decommissioning Plan”) in compliance with state law. In the absence of state law, the planning commission may establish the requirements for a Decommissioning Plan, which may include a surety bond or other suitable security to guarantee the execution of the Decommissioning Plan.
- (o) **Appeals:** Appeals of any administrative decisions made in connection with SEFFs shall be in accordance with Sec. 82-25(m). Appeals of recommendations or decisions by either the planning commission or the parish council shall be in accordance with Secs. 82-25(e) or (f), as applicable.
- (p) **Application and Permit Fee:** The SEFF permit application fee shall be \$5,000.00 plus 1.2 cents per square foot of gross area of solar panels based on Solar Arrays located within the facilities facility’s fenced boundary, ~~and shall be \$5,000 plus \$50 per array in excess of 50 arrays.~~ This fee shall be paid with the SEFF permit application. No processing or review of the SEFF permit application will begin until permit fee has been paid ~~for the professional administrative review of this permit.~~ The permit fee shall be adjusted annually in accordance with the Consumer Price Index ~~data~~ published by the U.S. Bureau of Labor Statistics (www.bls.gov/news.release/cpi.t04.htm or its successor URL) using Table 4, Consumer Price Index for All Urban Consumers (CPI-U): Selected Areas, All Items Index, South Region, Size Class B/C, or that index’s successor indicator.
- The permit application fee is intended to cover the expenses to the ~~parish~~ Parish of St. James, which include, but are not limited to, the cost of advertisement, hiring of consultants to guide the review process, and administration and supervision of any approved project by the consultant(s) as authorized by the parish. The fee is not refundable. If the parish, in their administration and enforcement of this ordinance, requires expert assistance that exceeds the application fee, the cost of such assistance shall be borne by the applicant or owner/operator and shall be deposited into escrow upon request, with any balance of the additional deposit to be promptly returned to the applicant, owner or operator.
- (q) **Annual Inspection and Permit:** All SEFFs shall be required to receive an annual inspection by the parish on or before June 1 in advance of hurricane season to confirm ongoing compliance with Sec. 82-26. This annual inspection requirement shall apply to all SEFFs, whether constructed or approved before or after the effective date of this Ordinance.

Inspection Fee. An annual inspection fee shall be required. This fee is intended to account for the costs of providing the annual inspections by the parish, or their certified consultant. The inspection fee shall be submitted by April 1 of each calendar year. The fee shall be \$3,000 plus 1.2 cents per square foot of gross area of solar panels located within the facility's fenced boundary. \$50 per array in excess of 50 arrays. The inspection fee shall be adjusted annually on the same basis as the application fee. Late payments of the annual inspection fee shall be charged interest at the statutory judicial interest rate, along with a late penalty of five percent (5%) per month, not to exceed a total of twenty five percent (25%) of the inspection fee.

- (r) **Dedication of ~~SEFF Solar Farm~~ annual inspection fees:** Upon completion of the annual inspection and payment to the certified consultant, remaining funds collected from annual inspections ~~the annual inspection~~ will be dedicated to the Parks and Recreation budget for identified capital projects that benefits the residents of the parish. In the event that no capital projects are identified for Parks and Recreation, the annual inspection fees will be submitted to the Road and Bridge fund for road maintenance.
- (s) **Conflict of Laws:** Whenever the requirements of this ordinance conflict with each other or with the requirements of any other applicable state, regulation, or law, including, without limitation, any regulations that may be promulgated by the Louisiana Department of Natural Resources, the more restrictive regulations shall apply.
- (t) **Applicability/Retroactivity:** Notwithstanding any language in this Ordinance to the contrary, Sec. 86-26(h), (i), (j), (l), and (q) shall apply to all SEFFs in the parish, regardless of when they were originally constructed or permitted. Sec. 86-26 in its entirety shall apply to any SEFF for which a final approval has not been rendered by the parish ~~the provisions of Articles the provisions of this Ordinance shall apply to all SEFFs on an ongoing basis, regardless of the date of approval or construction. The balance of the Ordinance shall be applicable to all SEFFs that had not yet received substantive review~~ as of the effective date of this ordinance.
- (u) **Variances:** The planning commission may approve variances from the strict application of Sec. 82-26(d) through (n) when reasonably warranted by site conditions or project features that are not fully accounted for by the provisions of Sec. 82-26. To be effective, any such variance must be explicitly stated in the planning commission's recommendation under Sec. 82-25(e) or approval under Sec. 82-25(f).

Part 4: Sec. 30-53(d) of the St. James Parish Code of Ordinances is hereby amended with the addition of the following new sub-subsection (21):

- (21) 221114 Solar Electric Power Generation.

Part 5: Sec. 82-25(o) of the St. James Parish Code of Ordinances, Limitation on Commercial Solar Facilities, is hereby repealed.