



Planning & Building Codes
135 W. Irvine St., 3rd Floor
Richmond, KY 40475
859-624-4780
www.madisoncountky.us

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CERTIFICATION OF LAND USE RESTRICTION

NAME: Pine Grove Solar LLC

ADDRESS: Parcel IDs: 0120-0000-0005-4, 0120-0000-0005, 0120-0000-0005-2, 0130-0000-0023, 0130-0000-0002, 0130-0000-0002-A

TYPE OF RESTRICTION(S):

- Zoning Map Amendment: _____ To _____ Zone
- Development Plan
- Unrecorded Subdivision Plat
- Dimensional Variance
- Conditional Use Permit
- Conditional Zoning Condition
- Other; Specify: _____

SPECIFICATIONS:

See attached list of conditions.

Issued: September 22nd, 2022

Bert Thomas
Director, Planning & Development

AES Clean Energy a subsidiary of The AES Corporation, and Pine Grove Solar, LLC shall all adhere to the following requirements/conditions:

1. Construction operating times are as follows:
 - a. Workday will begin at 6:00am and end 6:00pm and site will be cleared by 7:00pm
 - b. Workdays will be seven days a week until completion of project
 - c. Pile driving will only run from 7:00am -5:00pm Monday thru Friday
2. Setbacks: Setbacks shall be 100ft from the center of any road. Setbacks shall be 100ft between the solar facility (includes fencing, panels, structures, or other related equipment) and any adjacent nonparticipating property. Setbacks shall be 200ft between the solar facility (includes fencing, panels, structures or other related equipment) and any adjacent property which contains a residence.
3. Solar Panel Height: Height of panels shall not exceed 15ft at maximum tilt of the solar panels
4. Fencing: A Fence shall be constructed to enclose and secure the solar farm facility. Fencing shall be at least 6ft in height above ground level. If fencing is made of chain link material it must be slatted or screened with a color to match the surrounding environment. If fencing is not a chain link material, fence must be made of an opaque material with color of natural wood or surrounding environment. This fence must meet all electric utility safety and security guidelines.
5. Maintenance: Applicant shall provide to the Madison County Planning and Development Director a continuing maintenance plan for the entire project prior to construction and before production of solar energy commences on the solar farm. This plan will be updated annually on July 1st. This plan will include but not be limited to the following:
 - a. Any physical modifications to the solar farm and/or its infrastructure
 - b. Complaints pertaining to setbacks, noise, appearance, safety, lighting and any use of public roads received by the applicant, owner and/or operator concerning the solar farm facility and the resolutions of such complaints
 - c. Calls for emergency services, including the nature of the emergency and how it was resolved & this includes any environmental incidents whether considered emergency or not
 - d. Status/proof of liability insurance
 - e. Maintenance of Access Roads, Solar Panels, vegetation control, fence line maintenance, trash and debris clean up, wildlife protection, creek and stream protection and environmental protection
 - f. In addition, this plan must provide a local point of contact should an emergency or other issue arise
 - g. Any other information that the County might reasonably request on the initial plans or annual updates
 - h. Within 30 days of submission of initial and subsequent Maintenance Plans to the Planning and Development Director, the Planning and Development Office will review the Maintenance Plan and conduct an on-site field inspection of the solar farm facility.
 - i. Within 60 days of Maintenance Plan submission, Planning and Development office will compile a written report of any findings and request the help of any Madison County department to assist them with any remedy recommendations. The Solar Farm Facility will have a reasonable time, set by the Planning and Development Director, to remedy any maintenance issues not found to comply.
 - j. There will be a \$500 Fee for the initial and each subsequent annual maintenance plans. This fee will be due upon submission of each report. Failure to provide the annual maintenance plans and payment of required fee shall be considered a cessation of operations.

- k. The Applicant, owner and/or operator of the solar farm facility shall provide, the Madison County Planning and Development office personnel and any other person(s) accompanied by and deemed necessary by the Madison County Planning and Development office to be present, access to the Solar Farm Facility upon a 24-hour notice. Failure to provide access shall be deemed a violation of this Conditional Use Permit.
5. Installation and Design: Solar Farm Facility will be designed and located to prevent/limit glare toward any adjacent properties and all roadways in addition to any requirements of the Federal Aviation Administration
6. Lighting: Lighting will be shielded and directed so that it does not spill on to adjacent properties and roadways.
7. Noise: Noise levels, during operation, shall not exceed 50 decibels when measured at the property line of an adjacent nonparticipating properties. Noise levels will be enforced by local and state officials. Only exception of this is during the pile driving phase of construction.
8. Landscaping: A landscaping screen will be on the outside of the required fencing, around the entire perimeter of the solar farm.
- a) The screening shall consist of a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants. Screening shall not be required if solar farm is not visible to a dwelling or roadway by virtue of existing topography as determined by the Madison County Planning and Development Director.
- b) Landscaping under panels will be of native or other types of grasses. No gravel or concrete ground covering unless needed for roadway or to be support pads for accessory equipment or allow proper drainage.
9. Wiring: All Wiring between solar panels and other facilities (ie substations, O&M Buildings, Inverters) shall be underground unless applicant can show a special hardship in a particular location. A waiver may be granted by the Madison County Planning and Development Director.
10. Outdoor storage: Only outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of this solar farm facility will be allowed and shall be subject to the same fencing and screening requirements as the rest of the solar farm unless already within the confines of the required fencing in Condition #3.
11. Buildings: Any buildings built in support of this solar farm must be constructed of material that best blend in with the surrounding environment (ie: color, building height, foundation type, etc). This condition will be at the discretion of the Planning and Development director.
12. Access Points: Any new access point for this project from county roads must be approved by the Madison County Road Supervisor. These access points must be similar in design to the surrounding properties.
13. Roads: Prior to the start of construction, the applicant will provide the Madison County Road Department with a roads survey. This survey will map and log all the conditions of the county roads that will be used during the construction of this project. This will ensure that the applicant returns the roads post construction to pre-construction condition or better. in addition, the applicant shall post a bond in an amount determined by the Madison County Road Supervisor sufficient to guarantee the above. Madison County Fiscal Court will be the beneficiary of such bond.
14. Decommission: Prior to the start of construction, applicant will submit a decommissioning plan to the Madison County Planning and Development office and make it available to anyone upon

request. Applicant will commit to the following decommissioning requirements to be performed within 12 months from the date the lease expires or terminates or proof that the Solar Farm Facility is no longer generating/producing solar energy:

- a. Description of the plan to remove the solar farm facility equipment, solar panels and any other improvements and restore the land to its previous use upon the end of the project's life
- b. Provisions for Removal of solar facilities, structures, debris and associated equipment to a depth of not less than 4ft of surface grade and the sequence in which removal is to be expected
- c. Provisions for removal of all infrastructure including concrete mountings and foundations
- d. Provisions to restore the land to as close to pre-construction condition as reasonably practical including soil and vegetation restoration
- e. An estimate of the decommissioning costs in future dollars at the time of filing certified by a disinterested third party certified professional engineer
- f. A written financial plan approved by the Planning and Development Director to ensure that funds will be available for decommissioning and land restoration
- g. A provision that the terms of the decommissioning plan shall be binding upon the applicant, owner and/or operator and any of their successors, assigns or heirs
- h. Upon review of the decommissioning plan, the Planning and Development Director/Office shall set an amount to be held in the form of a Bond
- i. This Plan shall state that the project applicant/owner/operator shall provide the Madison County Fiscal Court with financial assurance to cover the estimated costs of decommissioning of the solar farm facility/project and that the Madison County Fiscal Court shall have access to the solar farm facility/project and to the Bond proceeds to effect or complete decommissioning within one (1) year after cessation of operations; and,
- j. The Applicant/owner/operator shall provide Madison County Planning and Development Director/Office with a new estimate of the cost of decommissioning of the solar farm facility/project every five (5) years under the same conditions as set forth in this section above. Salvage value of structures, electrical wire and other appurtenances shall be considered within the cost estimate calculations. Upon receipt of this new estimate, the county may require, and the applicant, owner and/or operator shall provide, a new financial plan for decommissioning acceptable to the Planning and Development Director/Office or their designated representative. A new Bond amount may be determined and required to ensure decommissioning is adequately funded. Failure to provide these new cost estimates and updated financial plans every five (5) years shall be considered a cessation of operations.

15. Bonds/Guarantees: AES Clean Energy a subsidiary of The AES Corporation, and Pine Grove Solar, LLC, will provide a bond/guarantee ensuring the decommissioning of the site under the proposed requirements stated above. The beneficiary of said bond/guarantee shall be:

- a. If leased there will be a dual beneficiary between the property owner and Madison County Fiscal court. In the event the property owner fails to reclaim the property to pre-construction condition, Madison County Fiscal court shall have the sole authority to execute the bond for purposes of reclaiming the property to pre-construction condition. 1
- b. If property is owned by applicant, then Madison County Fiscal court will be beneficiary of said bond/guarantee and shall have the sole authority to execute the bond for purposes of reclaiming property to pre-construction condition.

16. Safety: Applicant shall provide a report to the planning and development office identifying any special hazards associated with this project. Report will identify any special signage High Hazard areas or specialized training that may be required for first responders related to this project.

17. Compliance:

In addition to the items listed above the applicant must comply with any and all Local, State, and . Federal guidelines that would be related to a project such as this. In the event the applicant fails to comply with any condition mentioned above, the permit to operate this facility will be suspended and the facility must cease production until such time as the deficiencies are corrected or the solar farm facility/project must be decommissioned.

18. Cessation of Operations:

If any Solar arm Facility/Project has not been in operation and production of solar energy electricity for at least two hundred seventy (270) consecutive days then it will be deemed to be in cessation of operations and decommissioning must commence. The Madison County Planning and Development Office/Director shall notify applicant, owner and/or operator of their decommissioning commitment. Within 30 days the applicant, owner and/or operator shall provide evidence of operation and production of solar energy electricity or begin decommissioning. If the applicant, owner and/or operator fails to refuse to begin decommissioning then the Madison County Fiscal Court has the right to bring legal action and claim Bond proceeds to begin decommissioning.

19. Indemnification and Liability:

a. The applicant, owner and/or operator of the solar farm facility/project shall defend, indemnify, and hold harmless the County of Madison and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including attorney fees, without limitation, arising out of acts or omissions of the applicant, owner and/or operator associated with the construction and/or operation of this solar farm facility/project.

b. The applicant, owner and/or operator of the solar farm facility/project shall maintain a current general liability policy covering bodily injury and property damage with limits set by the Planning and Development Office/Director and/or their designated representative sufficient to cover a project of this size. Evidence of liability coverage must be reported and presented to the Madison County Planning and Development Office/Director prior to any construction and on an annual basis every July 1st. Any loss of coverage must be reported to the Madison County Planning and Development Office/Director within three (3) working days of loss. Failure to maintain coverage shall be considered a cessation of operations.

20. Penalties

a. A failure to obtain applicable building permit(s) for construction of this solar farm facility/project or failure to comply with the requirements of a building permit or the provisions of this Conditional Use Permit shall be deemed a violation of this Conditional Use Permit. The Madison County Attorney and/or the KY Commonwealth Attorney may bring action to enforce compliance.

b. Applicant, Owner and or Operator could be imposed with fines of not less than \$25 or no more than \$500 for violations of any of the terms of this Conditional Use Permit.

c. Nothing herein shall prevent the Madison County Fiscal Court from seeking such other legal remedies available to prevent or remedy any violations of this Conditional Use Permit.

**KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING**

**PINE GROVE SOLAR, LLC
CASE NO. 2022-00262**

STATEMENT REGARDING CERTIFICATIONS REQUIRED BY KRS 278.706(2)(d)

Comes the undersigned and states as follows:

1. That my name is Theresa Carroll, and I am Vice President of Permitting and Real Estate at AES Clean Energy, the Applicant herein;
2. That I am over 18 years of age and am a resident of the State of California;
3. That I have conducted an inquiry into the facts contained in this Statement and believe them to be true to the best of my knowledge;
4. That the proposed facility as planned will be in compliance with any and all local ordinances and regulations concerning noise control and will also be in compliance with any and all applicable local planning and zoning ordinances as provided in KRS 278.704(3).
5. The proposed facility will be constructed in compliance with the setback requirements established by Madison County and the Madison County Board of Adjustments approval of Pine Grove Solar's Conditional Use Permit, which is attached hereto.

Signed this sixteenth day of November 2022.

Theresa C Carroll

Theresa Carroll; Authorized Person
VP, Permitting and Real Estate
AES Clean Energy