

AMENDING CHAPTER 23 “UNIFIED DEVELOPMENT ORDINANCE”, ARTICLE 5.12 “HI” HEAVY INDUSTRIAL DISTRICT TO ADD “SOLAR ENERGY GENERATION FACILITY (SOLAR FARM)” AS A SPECIAL USE, AND ARTICLE 7.16 “SOLAR ENERGY SYSTEMS”, OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR SOLAR ENERGY GENERATION FACILITIES (SOLAR FARMS).

WHEREAS, the City of DeKalb (the “City”) is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City’s Unified Development Ordinance (the “UDO”) provides the City’s zoning and subdivision regulations, standards, and procedures; and,

WHEREAS, the City wishes to amend the UDO as set forth in Exhibit A attached hereto and incorporated herein (the “Text Amendment”) to amend Article 5.12, “HI” Heavy Industrial District”, to add “Solar Energy Generation Facility (Solar Farm)” as a special use, and Article 7.16, “Solar Energy Systems”, to establish regulations for Solar Energy Generation Facilities (Solar Farms); and

WHEREAS, on August 15, 2022, the City’s Planning and Zoning Commission held a public hearing regarding the Text Amendment and recommended approving the Text Amendment; and.

WHEREAS, the City’s corporate authorities find that it is in the City’s best interests for the promotion of the public health, morals and welfare to approve the Text Amendment; and.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The City’s corporate authorities adopt and approve the Text Amendment attached hereto and incorporated herein as Exhibit A;

SECTION 2: If any provision, clause, word, or designation of this Ordinance and the Text Amendment is held to be invalid by any court of competent jurisdiction, such provision, clause, word or designation shall be deemed to be excised from this Ordinance and the Text Amendment, and the invalidity thereof shall not affect any other provision, clause, word, or designation.


SECTION 3: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City’s corporate authorities that to the extent this Ordinance is inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 22nd day of August 2022 and approved by me as Mayor on the same day. Passed on

First Reading by a 7-0-1 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Faivre. Second Reading waived by a 7-0-1 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Faivre.





COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

EXHIBIT A

5.12 "HI" Heavy Industrial District

5.12.01 Purpose and Intent

This section contains the district regulations of the "HI" Heavy Industrial District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Ordinance which are incorporated as a part of this section by reference. The "HI" Heavy Industrial District is intended to be located in selected areas so that its permitted and special uses' noise, vibration, smoke, dust, toxic or noxious materials odors, fire, explosive, glare, heat, and other hazardous characteristics are not detrimental to the rest of the community.

5.12.02 Permitted Land Uses and Developments of the "HI" Heavy Industrial District

The following land uses are permitted in this district:

Any use permitted in the "LI" Light Industrial District;

Accessory uses;

Any use whose primary purpose includes the heavy manufacturing, fabrication, assembly (does not include disassembly), processing or treatment of goods and services, including but not limited to:

boats,

construction equipment,

containers and storage units,

motor vehicles and engines,

paints, inks,

stoneware, earthenware;

Data Center;

Railroad switching yards; and

Self-service storage facility, exterior unit access (see Article 7.21) (2022-002);

Self-service storage facility, interior unit access. (2018-008)

5.12.03 Special Land Uses and Developments of the "HI" Heavy Industrial District

The following land uses and developments may be permitted under conditions and requirements specified in Article 14, "Permits."

Animal slaughtering, meat packing, or rendering facilities;

Any use whose primary purpose includes the heavy manufacturing, fabrication, assembly, disassembly, processing or treatment of goods and services, including but not limited to:

concrete, asphalt, cement,

motor vehicles and engines,

Bulk fuel distribution or storage;

Distillery;

Extraction of raw materials from the earth and processing thereof;

Firearm Retailers / Firearm Dealers - regardless of size (See Article 7.19 regulations);

Firing Range, both indoor or outdoor (See Article 7.19 regulations);

Junkyards, salvage yards, vehicle wrecking yards conducted within an enclosed building or surrounded by a solid sight-proof fence not less than ten (10) feet in height, or the height of the materials being screened, whichever is greater, and where no materials shall be piled or stacked to a height in excess of fifteen (15) feet above the ground level.

Manufacturing and processing of flammable liquids, gases, explosives, chemicals, acids, fertilizers;

Penal, correctional, and other institutions necessitating restraint of inhabitants;

Petroleum refining or storage;

Recycling centers;

Retail Tobacco Stores (see Article 7.17);

Sanitary landfills, solid waste transfer stations, composting, energy reclamation facilities, recycling plants, incinerators, and similar solid waste management facilities, but excluding hazardous or radioactive waste disposal;

Solar energy generation facility (solar farm) (see Article 7.16)

Steel mills, foundries, forges, and smelters;

Storage of hazardous substances as the principal use of the property; and

Sulfur and rubber reclamation plants.

5.12.04 Density and Dimensional Regulations of the "HI" Heavy Industrial District

1. *Minimum Lot Area:* Except as required for residential dwellings, no minimum lot area is established for permitted and special land uses in the HI District, however, lot dimensions shall be sufficient to meet other requirements of this Section and Article 12, "Off-Street Parking and Loading Requirements."
2. *Building Setback Requirements:* Except as provided for in Article 7, "Supplementary District Regulations," the following setback requirements apply to buildings in the HI District.
 - a. *Front Yard:* No principal building shall be allowed within forty (40) feet of any front lot line or a street right-of-way line.
 - b. *Side Yard:* No building setback is required from a side lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within one hundred (100) feet of the side lot line. See Article 7, "Supplementary District Regulations" for screening requirements.

- c. *Rear Yard*: No building setback is required from a rear lot line, except for a lot which abuts a residence district or upon an alley separating this lot from a residence district. Under these circumstances, no principal building shall be allowed within one hundred (100) feet of the rear lot line. See Article 7, "Supplementary District Regulations" for screening requirements.
3. *Maximum Site Coverage*: There is no limitation on site coverage in the HI District.
 4. *Building Height Limitations*: No building shall exceed six (6) stories or seventy-five (75) feet in height, except as provided in Article 7, "Supplementary District Regulations," and as provided in paragraph 5 below.
 5. *Building Height Exceptions*: By Special Use Permit (see Article 14, "Permits"), or as part of a "Planned Development," buildings may exceed building height limitations, subject to the following building setback requirement:
 - a. *Front Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from a front lot right-of-way line need ever exceed 150 feet.
 - b. *Side Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no side yard setback need ever exceed fifty (50) feet.
 - c. *Rear Yard*: The required building setback shall be increased by one (1) foot for each two (2) feet, or portion thereof, of increased building height, provided, however, that no setback from the rear lot line need ever exceed fifty (50) feet.

5.12.05 Other Development Regulations for the "HI" Heavy Industrial District

The following list references the appropriate Articles of this Ordinance which specify the other regulations governing development in this district.

1. "Overlay District Regulations": Article 6
2. "Supplementary District Regulations": Article 7
3. "Streets, Sidewalks and Subdivision Design": Article 9
4. "Utilities": Article 10
5. "Floodways, Floodplains, Storm Drainage and Erosion": Article 11
6. "Off-Street Parking and Loading Requirements": Article 12
7. "Signs": Article 13

5.12.03 Conditions of Use

Depending on sewage collection and treatment requirements, a developer or business shall verify the adequacy of said system with the Kishwaukee Water Reclamation District prior to applying for a building or occupancy permit.

7.16 Solar Energy Systems (SES) Ordinance

7.16.01 Purpose and Intent

1. This ordinance is intended to promote the safe and efficient construction, installation, and operation of solar energy systems as alternative means of renewable energy production in the City of DeKalb. The ordinance also seeks to protect the health and well-being of those residing or working in close proximity to solar energy systems.
2. This ordinance applies to all newly constructed, installed, substantially modified, or relocated solar energy systems after the effective date of the ordinance. It shall apply to all solar energy systems as defined herein and located in all zoning districts within the City.

7.16.02 Definitions

1. *Solar Energy System (SES):* A *Solar Energy System* is a structure or device designed to collect the sun's radiant energy (solar radiation) for conversion into electrical or thermal energy for practical purposes. Excluded from this definition are passive structures, such as windows or greenhouses; solar farms, which are massive collections of solar systems covering extensive land areas; and public utilities, which are regulated by the State. For the purpose of this ordinance, there are two major types of SESs as defined below.
 - a. *Photovoltaic System (PVS):* A *Photovoltaic System* is one that converts solar radiation into electrical energy using photovoltaic cells.
 - b. *Solar Thermal System (STS):* A *Solar Thermal System* is one that heats water or other liquids directly or indirectly using solar radiation. This type of system is often used for space heating as well as to heat water or generate electricity.
2. *Building-Mounted Solar Energy System (B-M SES):* A *Building-Mounted Solar Energy System* is one that is attached to an existing building or other free-standing structure. This definition includes, but is not limited to, roof-mounted and side-mounted SESs on buildings or other structures as well as those mounted on light poles, towers, etc.
3. *Ground-Mounted Solar Energy System (G-M SES):* A *Ground-Mounted Solar Energy System* is one that is attached to the ground and not affixed to an existing building or other free-standing structure.
4. *Substantially-Modified Solar Energy System:* A *Substantially-Modified Solar Energy System* is one that has been physically modified so that its size, type, or components is different from that of the original system. Replacement of existing equipment with comparable components is not considered substantial modification.
- 4-5. *Solar Energy Generation Facility (Solar Farm):* A *Solar Energy Generation Facility (Solar Farm)* is a commercial facility that converts solar energy into electrical energy for the interconnection with the power grid primarily for off-site energy consumption. A solar energy generation facility (solar farm) is the principal land use for the parcel on which it is located (see Article 17.16.15).

7.16.03 Permits

1. It shall be unlawful to install, substantially modify, relocate, or operate a SES within the City of DeKalb without a valid permit. Permits may be granted in all zoning districts within the City.

2. Upon application for a permit, the applicant shall provide the City with detailed plans for the construction, installation, or operation, or substantial modification or relocation, of the proposed or existing SES. The plans shall clearly show the major components of the system and their intended or existing locations. A sketch detailing all other structures and property lines within a two hundred (200) foot radius of the proposed SES shall also be provided. If the owner/leaseholder of the SES intends to connect the system to a utility's grid, written confirmation and approval from the utility is required.

7.16.04 Design Requirements

1. All solar energy systems used in the City of DeKalb shall be manufactured and designed to comply with applicable industry standards, including the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), and other appropriate certifying organizations. In addition, all SESs shall comply with applicable City codes, including City height and location requirements for buildings or other structures. Where City height or location requirements for buildings or other structures in a given zoning district are more restrictive than those covered in this ordinance, the former requirements shall apply.
2. Solar energy systems shall be constructed, installed, operated, and located to minimize potentially adverse impacts on nearby properties or individuals. A SES shall not present a significant nuisance due to solar glare, bright colors, or protrusion onto another property. Building-mounted systems that blend into the structural design of buildings or other structures and ground-mounted systems that can be partially or completely obscured from outside view (e.g., by use of fencing, trees, or other vegetation) are highly encouraged. Advertising is strictly prohibited on SESs except for unobtrusive manufacturer labeling.

7.16.05 System Height

All SESs shall comply with the applicable height limits shown in Table 1 (hereafter) except as noted in item 1a of this section. Height limits for G-M SESs apply at minimum design tilt.

Table 1: Maximum Height Limits

Type of System / Zoning District		Residential	Commercial	Industrial	Public
Building-mounted	a. Roof-mounted	a. 1 foot above the roof surface of the building	a. 2 feet above the roof surface of the building	a. 3 feet above the roof surface of the building	a. 3 feet above the roof surface of the building
	b. Side-mounted	b. 1 foot above the highest level of the given structure	b. 2 feet above the highest level of the given structure	b. 3 feet above the highest level of the given structure	b. 3 feet above the highest level of the given structure*
Ground-Mounted		10 feet	12 feet	15 feet	15 feet

*SESs mounted on City-owned monopoles or towers may extend to a maximum of 5 feet above the height of the monopole or tower. SESs mounted on non-City-owned monopoles or towers are subject to the height requirements stated in Table 1 except as noted in Section 7.16.04.01

7.16.06 System Location

1. General
 - a. Building- and ground-mounted SESs shall be located so as to conform to the design requirements and recommendations outlined in Section 7.16.04.02 of this ordinance.

- b. Ground-mounted SESs shall not be located in wetlands or habitats of protected species of animals or plants. In addition, G-M SESs shall minimize local water retention by restricting impervious surfaces to the foundations anchoring the systems to the ground and by maintaining grass or other suitable penetrable media below all elevated components so as to permit adequate infiltration and percolation of precipitation into the ground.

2. Setbacks

- a. *Building-Mounted Solar Energy Systems.* In addition to required building or other structure setbacks, roof-mounted systems shall not extend beyond the exterior perimeter of the building or other structure. External piping for solar hot water systems may be allowed to extend beyond the perimeter of the building or other structure on a side yard exposure. Side-mounted systems shall be allowed to extend beyond the perimeter of the building or other structure as long as the system components are within applicable building or other structure setbacks for the given zoning district.
- b. *Ground-Mounted Solar Energy Systems.* Ground-mounted SESs shall be set back a distance equal to one (1) times the maximum height of the system when oriented at minimum design tilt or a minimum of six (6) feet, whichever is greater. Setbacks shall be measured as the distance from the outer edge of the system to the adjacent property line. Ground-mounted systems in residential and commercial zoning districts shall not extend into front or side yards. All exterior electrical and plumbing lines shall be buried below ground and placed in suitable conduits or otherwise protected from the elements.

7.16.07 Safety

1. The installation of a SES shall be conducted by a qualified installer.
2. All electrical and plumbing connections in a SES shall comply with applicable City and State codes.
3. Building-mounted SESs shall meet all applicable fire prevention and building code requirements. In addition, all solar-related conduits, electrical panels, and disconnects on B-M SESs shall be easily identifiable by fire protection personnel.
4. Where storage batteries or electrical transformers are employed as part of a SES, they shall be clearly labeled with warnings and securely enclosed or otherwise contained so as to minimize potential electrical shock, fire, or explosion.

7.16.08 Abandonment and Removal

1. If the City receives a complaint regarding an apparent non-functioning SES, it shall inspect that system. If the inspection reveals that the SES is not in good working order and has been so for a continuous period of 12 months, the system shall be considered abandoned. The City may issue a Notice of Abandonment to the permit holder where the system is located, and the permit holder shall be responsible for having the system completely removed from the property within six (6) months.
2. Within 30 days of a Notice of Abandonment the permit holder may request that the City delay its designation of abandonment by submitting satisfactory documentation that the system has not been abandoned, as defined in this ordinance, along with a specific date by which the system will be fully operational and in good working order. If the request is satisfactory upon examination of the supporting documents and an onsite inspection, the Notice of Abandonment shall be rescinded by the City.
3. At least 30 days prior to commencing removal of a SES, a plan indicating how the system will be removed shall be submitted to the appropriate City office by the permit holder. Removal of a SES

shall be complete, including all system components together with integral electrical and plumbing parts, and shall be conducted so as to comply with all applicable safety and building codes or regulations. The site shall be restored to its original condition.

7.16.09 Restrictions

The installation, operation, or substantial modification of SESs shall not be unduly limited by homeowners' agreements, covenants, or other contracts among dual or multiple party owners in any subdivision of the City to a greater extent than the requirements contained in this ordinance.

7.16.10 Solar Easements

The right of a property owner in the City of DeKalb to create a legal agreement with one or more neighboring property owners so as to protect access to direct sunlight essential to the effective operation of a solar energy system shall not be restricted. Solar easements shall be entered into and filed in accordance with applicable State and local laws.

7.16.11 Violations

It shall be unlawful for any person or entity to construct, install, operate, or substantially modify a SES that is not in compliance with the provisions of this ordinance or with any condition contained in a permit issued pursuant to this ordinance. Solar energy systems installed prior to the effective date of this ordinance are exempt except when substantially modified.

7.16.12 Penalties

Anyone who fails to comply with any applicable provision of this ordinance or a permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in the City's zoning code.

7.16.13 Waivers

Upon written request, the City of DeKalb may issue a waiver for a specific requirement of this ordinance provided the waiver does not present an undue burden on adjacent property owners. Waivers shall not be granted without an open hearing that takes into account the support or opposition of those affected by the ruling. A special permit shall be required for a waiver.

7.16.14 Severability

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

7.16.15 Solar Energy Generation Facility (Solar Farm)

1. Standards

- a. All aspects and components of a solar energy generation facility (solar farm), except fences and overhead transmission lines, shall be setback a minimum of 50 feet from any property line or street right-of-way. A minimum setback of 100 feet shall be maintained to any residential zoned property.
- b. All aspects and components of a solar energy generation facility (solar farm), except overhead transmission lines, shall have a maximum height of 15 feet.
- c. Fencing is not required however if installed it shall not exceed eight (8) feet in height and may be located in any yard. Barbed wire fencing is not allowed.

- d. Any lighting shall be installed for security and safety purposes only. All lighting shall be shield so that no glare extends beyond the boundaries of the facility.
- e. All areas occupied by the solar farm that are not utilized for access to operate or maintain the solar farm shall be planted and maintained with native grasses or other vegetation for the purpose of soil stabilization or other method recommended by the City Engineer. The solar farm owner/operator shall provide for weed control in a manner that prevents the spread of weeds onto adjacent agricultural land.
- f. A Decommissioning Plan shall be provided and include, but not limited to, the following requirements:
 - 1. The Decommissioning Plan shall be triggered and complied with at any point that the solar panels are not actively generating energy being transmitted to the electrical grid for a period of at least one hundred and eighty (180) consecutive days.
 - 2. Upon the occurrence of the first requirement, the owner/operator shall have six (6) months to comply with the Decommissioning Plan and to fully remove the solar energy generation facilities from the property.
 - 3. Provisions for removal of all structures and foundations, and the restoration of soil and vegetation to usable farmland.
 - 4. An engineer's estimate of probable cost ("EOPC") for the costs associated with decommissioning.
 - 5. Provision of sufficient security (i.e., a bond, irrevocable letter of credit, or escrow posting) in the form and content acceptable to the City Manager to secure the costs of decommissioning and site restoration.