

# SOLAR REGULATIONS

March 13, 2018

Committee Recommended Final Product

## Chapter 17.61C

### SOLAR POWER PRODUCTION FACILITIES

#### 17.61C.010 Purpose.

The purpose and intent of this chapter is to establish a process for recognition and designation of properties in Kittitas County suitable for the location of Solar Power Production Facilities (SPPF), to protect the health, welfare, safety, and quality of life of the general public, to allow for development while protecting existing agricultural resources, and rural character, to comply with the goals and requirements of the Washington State Growth Management Act, and to ensure compatibility with land uses in the vicinity of these facilities.

#### 17.61C.020 Definitions

1. "Solar Power Production Facilities" or "SPPF" means a utility on an area of land designated for the purpose of producing photovoltaic electricity over one hundred kilowatts (100 KW) and includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores and/or transfer that electricity.
2. "Alternatives Analysis" means a study prepared by a Washington State licensed professional engineer that demonstrates why a particular Tier 3 site is justified and why other Tier 1 or Tier 2 areas cannot reasonably accommodate the proposed SPPF. The study must address the following questions:
  - a. Can the proposed SPPF be reasonably accommodated on Tier 1 or Tier 2 properties?
  - b. Can the proposed SPPF be reasonably accommodated on Tier 3 land that is already irrevocably committed to uses other than irrigated agriculture?
  - c. Can the proposed SPPF be reasonably accommodated inside an urban growth area? If not, why not?

#### 17.61C.025 Adoption of Solar Power Production Facilities Overlay Map

1. The official Solar Power Production Facilities Overlay Map is adopted by reference and declared to be a part of this chapter. The official Solar Power Production Facilities Overlay Map shall be identified by the signature of the Chairperson of the Board and attested by the Clerk of the Board.
2. No changes of any nature shall be made to the Solar Power Production Facilities Overlay Map except in conformity with the procedures set forth in this title.

#### 17.61C.030 Siting Overlay

As a rural county, the protection of existing agricultural resources is a priority. The purpose of the following tiered system is to preserve prime agricultural land by designating areas of the county that are

appropriate for the siting of SPPFs. As siting moves from Tier 1 to Tier 3, the stringency of the permitting required increases.

1. Tier one (1). Tier 1 consists predominately of public lands, and areas that are primarily characterized by non-agricultural lands. However this tier also includes a minor portion of lands that practice agricultural uses.
  - a. The placement of a SPPF of any size shall require an administrative conditional use permit.
2. Tier two (2). Tier 2 consists of areas that are primarily characterized by non-irrigated agricultural lands.
  - a. The placement of a SPPF with a foot print of zero (0) to fifty (50) acres shall require a conditional use permit. SPPFs larger than fifty (50) acres are prohibited in this tier. There shall be a minimum of one (1) mile between the perimeters of all SPPFs in this tier.
3. Tier three (3). Tier 3 consists of areas recognized as high-quality agricultural districts dominated by irrigated commercial agriculture.
  - a. The placement of a SPPF with a foot print of zero (0) to fifty (50) acres or 5 megawatts, whichever is smaller, shall require a conditional use permit and alternatives analysis. SPPFs larger than fifty (50) acres are prohibited in this tier. There shall be a minimum of one (1) mile between the perimeters of all SPPFs in this tier.

#### **17.61C.040 Permit Submittal Requirements**

The following shall be submitted for all SPPF applications:

1. Site and development plans which identify and/or locate all existing and proposed structures, setbacks, access routes, proposed road improvements, residential uses within one quarter of a mile of the project perimeter, existing utilities, pipelines, transmission lines, proposed utility lines, utility and maintenance structures, existing and proposed drainage areas, topography, proposed grading/landscaping, areas of natural vegetation removal and any re-vegetation methods, weed control, dust and erosion controls, any critical areas (as defined in KCC 17A) on or abutting the property, and any other relevant items identified by Community Development Services. All maps and visual representations shall be drawn to an appropriate scale.
2. An affidavit of agreement between lot owner and facilities owner or operator (when applicable) confirming that permission has been granted to propose, construct and/or operate a SPPF.
3. A written compliance narrative addressing how the proposal meets the following criteria in KCC 17.61C.050, .060, .070, .080, and .090.

The following shall be submitted for all SPPF applications on lands identified as Tier 3 on the Solar Power Production Facilities Overlay Map:

1. An Alternatives Analysis prepared by a Washington State licensed professional engineer. The Alternative Analysis shall contain the following:
  - a. A description of the proposed SPPF, to include proposed equipment, power to be generated, and property sizing requirements.
  - b. A description of the subject property, to include topography, existing vegetation, critical areas, geotechnical considerations, proximity to electrical substations and transmission lines, and surrounding land uses and densities.

- c. An analysis of at least five (5) potential SPPF alternative sites
- d. Public investment review: substantial public and private investment has and continues to be made in regional irrigation systems that supports the community economic base in this area.
- ~~d.e.~~ Public investment review: substantial public and private investment has and continues to be made in regional irrigation systems that supports the community economic base in this area.
- e.f. A conclusion addressing the following:
  - 1. Can the proposed SPPF be reasonably accommodated on other Tier 1 or Tier 2 properties?
  - 2. Can the proposed SPPF be reasonably accommodated on Tier 3 land that is already irrevocably committed to uses other than irrigated agriculture?
  - 3. Can the proposed SPPF be reasonably accommodated inside an urban growth area? If not, why not?

#### **17.61C.045 Procedures**

The following procedures shall be followed for all SPPF applications:

- 1. SPPF applications shall be processed in accordance with the applicable provisions of Kittitas County Code 15A.
- 2. Public notice of proposed SPPFs shall be provided to all property owners within 5280 feet of the proposed project site.

#### **17.61C.050 Visual Impacts/Aesthetics**

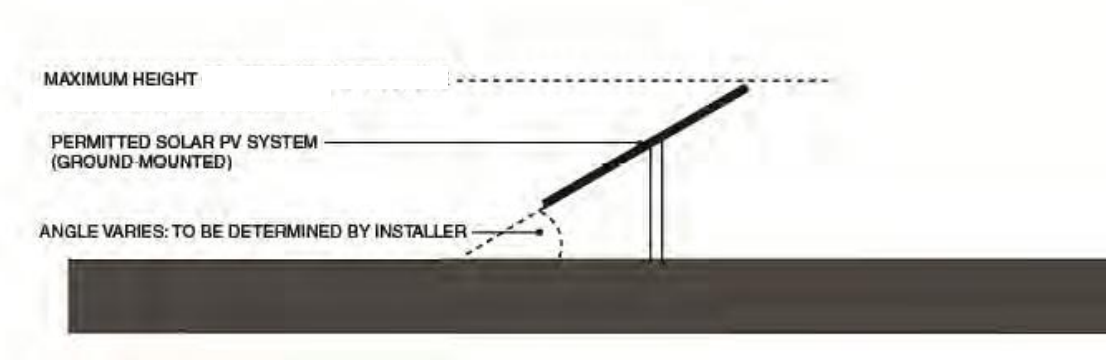
- 1. SPPF projects shall be screened, or enclosed by perimeter fencing a minimum of eight (8) feet in height. Screening and/or fencing shall be consistent with the surrounding character and utilize landscaping and/or native vegetation strategies to screen the facility from routine view of public right-of-ways or adjacent residential property. When used, fencing type and style shall also reflect any safety concerns specific to adjacent wildlife and general public.
- 2. On-site power lines shall, to the maximum extent practicable, be placed underground.
- 3. Glare resistant solar panels shall be used if the solar facility is located in an airport overlay zone; additional glare mitigations may be required by Kittitas County in these zones. Appropriate measures may also be taken to ensure glare does not negatively impact surrounding neighbors, wildlife or adjacent livestock
- 4. Lighting of the SPPF and accessory structures shall be limited to the minimum necessary and night time restrictions may be required when determined necessary to mitigate visual impacts. Lighting shall be contained within the perimeter of the facility whenever possible and any exterior lighting shall face downward and be shielded.

#### **17.61C.060 Setbacks/ Buffers/Standards**

- 1. SPPFs shall meet the minimum zoning setback for the zoning district in which they are located, or 25 feet, whichever is greater. This applies to front, rear, and side setbacks.
- 2. SPPF free standing infrastructure shall not exceed a maximum of 20 feet in height as measured from the grade at the base of the structure to its apex. (See Figure 17.61C-1)

3. The construction and operation of any SPPF shall be consistent with applicable local, State, and Federal requirements including but not limited to safety, construction, electrical, communication, and fire requirements. All fixtures and buildings shall comply with all local and State building codes.
4. SPPFs shall comply with lot coverage standards for the zoning district of the proposal.

**Figure 17.61C-1**



#### **17.61C.070 Environment**

1. All SPPF applications shall require a noxious weed management plan outlining methods, maintenance schedules, and any potential soil viability impacts. Construction or maintenance activities shall not result in the unabated introduction or spread of noxious weeds and other undesirable weed species
2. Kittitas County shall review impacts on areas of environmental concern including but not limited to wildlife habitat, migration routes and critical areas when processing commercial solar land use permits. If the project is found to have potential environmental impacts, the applicant shall provide sufficient mitigation strategies to the satisfaction of Kittitas County as well as any applicable state or federal agency with jurisdiction. This may include studies, reports, certificates, or other approvals at the discretion of the Director.
3. All projects shall comply with Kittitas County Critical Areas Ordinance and Shoreline Master Program requirements.
4. All SPPF applications shall include a stormwater management plan which shall include any proposed ground disturbance and mediation measures (such as reseeding with appropriate vegetation) to contain storm water runoff. The stormwater management plan shall comply with the storm water management standards in KCC 12.06
5. Projects shall have a Kittitas County Fire Marshal approved fire wise/fire management plan prior to building permit approval.

#### **17.61C.080 Security/Safety**

1. The manufacturers' or installers' identification and appropriate warning signage shall be posted at the site in a clear and visible manner at the entrance and along perimeter facing. A sign consistent with KCC 17.70 shall be provided that shall identify the owner of the facility and provide a 24-hour emergency contact and phone number.

2. All photovoltaic systems shall comply with the most current edition of the National Electrical Code.

#### **17.61C.090 Decommissioning/Abandonment**

##### **1. Abandonment Requirements:**

- a. SPPFs which have not been in active and continuous service at an operational level of no less than 70% of the facility's original design capacity for a period of 1 year (365 days) shall be removed at the owner/ operator's expense.
- b. The Planning Official, Building Official, Code Enforcement Officer or designee may issue a Notice of Abandonment to the owner/operator of the facility. The owner/operator shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date. The Building Official, Code Enforcement Officer or designee may withdraw the Notice of Abandonment and notify the owner/operator that the Notice has been withdrawn if the owner/operator provides sufficient information to demonstrate that the facility has not been abandoned which may include documentation or certification by the owner/operator of the electrical grid that the SPPF has met the requirement of 17.61C.090 (1)(a).
- c. If the owner/operator fails to respond to the Notice of Abandonment or if after review by the Planning Official, Building Official, Code Enforcement Officer or designee it is determined that the facility has been abandoned or discontinued, the owner/operator of the facility shall remove the SPPF at the owner/operator's sole expense within 3-months of receipt of the Notice of Abandonment. If the owner/operator fails to physically remove the facility after the Notice of Abandonment procedure, the County shall have the authority to enter the subject property, physically remove the facility and recover costs associated with that removal from the property owner/operator.

##### **2. Decommissioning Requirements:**

- a. The site shall be restored to its original condition within six (6) months of removal.
- b. Restoration of the site shall consist of the following:
  - i. Dismantle and removal of all photovoltaic solar power generation facilities including modules, mountings, foundations, gravel beds, inverters, wiring, and storage devices.
  - ii. Private access road areas shall be restored by removing gravel and restoring surface grade and soil, unless the landowner directs otherwise.
  - iii. After removal of the structures and roads the area, if disturbed during SFFP construction and operation, shall be graded as close as is reasonable possible to its original contours or contours advantageous for agricultural operations and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with noxious weed control measures.
- c. Proponents of any commercial SPPF shall demonstrate decommission assurances to Kittitas County in the form of a surety bond or escrow account to cover the cost of removal in the event the facility must be removed by Kittitas County. The intent of this requirement is to guarantee performance (not just provide financial insurance) to protect the public interest and the County

budget from an unanticipated, unwarranted burden to decommission a SPPF. The proponent shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified Washington State licensed engineer that is accepted by Kittitas County. The surety bond or escrow account shall be provided prior to installation. The qualified estimate shall be based on the projection of present year dollars for a period of 30 years at an annual inflation rate of 2.5% to offset increased removal costs as a result of inflation. The surety bond shall not be subject to revocation or unjustified reduction before decommissioning.

- d. A decommissioning plan must be submitted at the time of initial application for review and consideration.

#### **17.61C.100 Exceptions**

The following shall be treated as Tier 1 regardless of how the property is designated on the Solar Power Production Facilities Overlay map:

1. Land that is already irrevocably committed to uses other than agriculture.
2. Lands that do not contain soils suited for agricultural uses as described by the Soil Survey of Kittitas County.