

## Planning Commission Draft – February 26, 2019

### Chapter 17.61C SOLAR POWER PRODUCTION FACILITIES

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#### **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.

(Ord. 2018-018, 2018)

#### **17.61C.020 Definitions.**

The following definitions shall be used in conjunction with the administration of this chapter:

1. "Glare" means the effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
2. "Operator" means the person responsible for the overall operation and management of a solar energy project.
3. "Owner" means the person who owns all or a portion of a solar energy project.
4. "Perimeter" means the property lines for a lot, tract, or parcel that a Solar Power Production Facility is located on.
5. "Photovoltaic" means materials and devices that absorb sunlight and convert it directly into electricity.
6. "Solar Array" means a grouping of multiple solar modules with purpose of collecting or converting solar energy.
7. "Solar Cell" means smallest basic solar electric device which generates electricity when exposed to light.

8. "Solar Equipment" means Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.
9. "Solar Module" means a grouping of solar cells with the purpose of collecting or converting solar energy.
10. "Solar Panel" means that part or portion of a Solar Power Production System containing one or more receptive cells or modules, the purpose of which is to convert solar energy to electricity.
11. "Solar Power Production Facilities" or "SPPF" means a utility on an area of land designated for the purpose of producing photovoltaic electricity with a nameplate capacity of over one hundred kilowatts (100 KW) and includes, but is not limited to, an assembly of solar panels and solar equipment that converts sunlight into electricity and then stores and/or transfers that electricity. Solar Power Production Facilities may include mechanical buildings and other uses that are typical to a SPPF, however offices and other commercial uses are prohibited. (Ord. 2018-0186, 2018)

#### **17.61C.030 Adoption of Solar Power Production Facilities Overlay Map.**

1. 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. 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 [KCC Title 15B](#). (Ord. 2018-018, 2018)

#### **17.61C.040 Solar Overlay Zones.**

As a rural county, the protection of existing agricultural resources is a priority. The following solar overlay zones are established to preserve prime agricultural land by designating areas of the county that are appropriate for the siting of SPPFs:

1. Solar Overlay Zone 1 consists of lands designated by the Washington State Department of Agriculture as agricultural land uses on its agricultural land use geodatabase.
2. Solar Overlay Zone 2 consists of lands that are not designated by Washington State Department of Agriculture as agricultural land uses on its agricultural land use geodatabase. (Ord. 2018-018, 2018)
- 2.3. Solar Overlay Zone 3 consists of lands that are not designated by Washington State Department of Agriculture as agricultural land uses on its agricultural land use geodatabase and are outside of irrigation district boundaries.

#### **17.61C.050 Public involvement process, advisory committee and agency coordination.**

Except as provided in 17.61C.060 Permitting and Siting of Solar Power Production Facilities are subject to the following Solar Overlay Zone restrictions:

1. , The placement or construction of an SPPF on any properties identified as Solar Overlay Zone 1 on the Solar Power Production Facilities Overlay Map is prohibited. Except as provided in 17.61C.060.

2. The placement or construction of an SPPF in Solar Overlay Zone 2 shall require conditional use permit approval.
- ~~1.3.~~ The placement or construction of an SPPF in Solar Overlay Zone 3 shall require administrative conditional use permit approval. (Ord. 2018-018, 2018).

#### **17.61C.060 Permitting Exceptions.**

The placement or construction of an SPPF on properties in Solar Overlay Zone 1 may be allowed subject to conditional use permit approval, in the following locations:

1. Lands that do not contain soils suited for agricultural uses as described by the United States Department of Agriculture and Natural Resource Conservation Service Soil Survey of Kittitas County Area, Washington.
2. Lands that have been converted to roads, parking lots, runways, or similar uses prior to October 2, 2018.
3. Rooftops of buildings existing prior to October 2, 2018.
4. Airport Safety Zones.
5. Powerline Rights-of-Way.
6. Highway Interchanges.(Ord. 2018-018, 2018)

#### **17.61C.070 Submittal Requirements.**

1. A site plan drawn to an appropriate scale that identifies 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.
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 an SPPF
3. A written compliance narrative addressing how the proposal meets the approval criteria in KCC 17.60A.015 and KCC 17.61C.080, .090, and .100.
4. A noxious weed management plan outlining methods, maintenance schedules, and any potential soil viability impacts
5. A stormwater management plan prepared in accordance with KCC 12.06 that includes any proposed ground disturbance and mitigation measures (such as reseeded with appropriate vegetation) to contain storm water runoff.
6. A decommissioning plan demonstrating compliance with KCC 17.61C.100(2).
7. A water rights retention plan, if applicable. (Ord. 2018-018, 2018)

#### **17.61C.080 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.

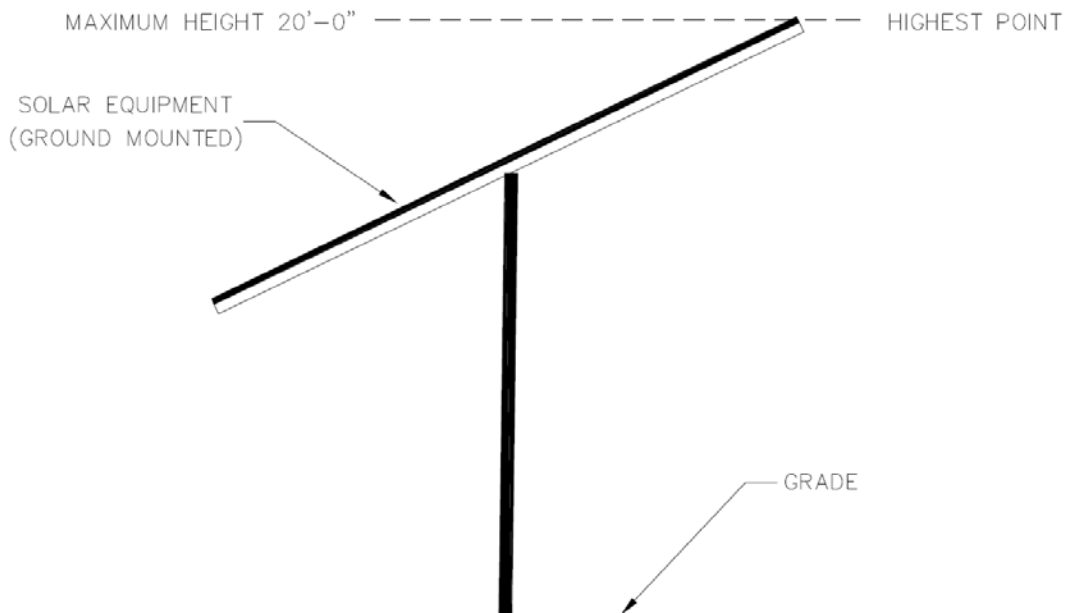
2. Public notice of proposed SPPFs shall be provided to all property owners within one (1) mile of the proposed project site. (Ord. 2018-018, 2018)

#### **17.61C.090 Development Standards.**

SPPFs shall comply with the following developments standards:

1. SPPFs shall be screened or shall be enclosed by 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 fencing is used, the type and style of fencing shall also reflect any safety concerns specific to the general public and adjacent wildlife.
2. Glare shall not negatively impact surrounding properties, wildlife, or livestock.
3. Glare resistant panels shall be required for SPPFs located within an airport overlay zone.
4. Any lighting shall be shielded and downward-facing to contain light within the perimeter of the facility to the maximum extent possible.
5. All solar equipment associated with a SPPF shall meet the minimum zoning setbacks for the zoning district in which the SPPF is located, or 25 feet, whichever is greater.
6. SPPF solar equipment shall not exceed a maximum of 20 feet in height as measured from grade at the base of the equipment to its highest point during operation. (See Figure 17.61C-1)
7. The construction and operation of all SPPFs shall be consistent with applicable local, state, and federal regulations, including but not limited to, safety, construction, electrical, communication, and fire requirements. All solar equipment and other structures shall comply with local and state building codes.
8. Construction or maintenance activities shall not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.
9. A Kittitas County Fire Marshal-approved fire management plan shall be provided by the applicant prior to building permit approval.
10. 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 any fencing.
11. 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.
12. All solar equipment shall comply with the most current edition of the National Electrical Code.
13. Any water rights associated with the subject property for an SPPF shall be retained through the life of the facility.

Figure 17.61C-1<sup>a</sup>



(Ord. 2018-018, 2018)

\*Scrivener's note: typographical error correction.

#### **17.61C.100 Review Criteria.**

Kittitas County may approve an SPPF application only when the following requirements have been met:

1. The proposed SPPF is consistent with the conditional use permit review criteria contained in KCC 17.60.015.
2. The proposed SPPF is in compliance with the Kittitas County Critical Areas Ordinance (KCC Title 17A) and Shoreline Master Program (KCC Title 17B), and Voluntary Stewardship Program (VSP).
3. Environmental impacts including but not limited to wildlife habitat, migration routes and critical areas have been mitigated. If the project is found to have potential environmental impacts, the applicant shall provide sufficient mitigation strategies to the satisfaction of Kittitas County.
4. The proposed SPPF is in compliance with the Storm Water Management Standards of [KCC 12.06](#). (Ord. 2018-018, 2018)

#### **17.61C.110 Abandonment and Decommissioning.**

1. Abandonment Requirements:
  - a. SPPFs which have not generated electricity that is sold for commercial use within eighteen (18) months shall be removed at the owner/operator's expense. Owners/operators may be required to provide proof of electricity generation as requested by Kittitas County.
  - 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 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 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 decommissioning funds shall be equivalent to 125% of the engineer's estimated cost for the purpose of guaranteeing completion of the work. The decommissioning assurance shall be reevaluated every five (5) years to ensure sufficient funds for decommissioning, and if deemed appropriate at that time, the amount of decommissioning funds shall be adjusted accordingly. (Ord. 2018-018, 2018)