



**MORGAN COUNTY PLANNING COMMISSION  
AMENDMENT SUMMARY  
April 21, 2025 (work session/stakeholder)**

**AMENDMENTS  
MORGAN COUNTY ZONING REGULATIONS**

Solar, Battery Energy Storage System (BESS) and Wind Regulations. After processing several Solar and BESS applications, staff recommended a re-evaluation of these regulations. The proposed amendments are regarding submittal requirements, standards and decommissioning requirements. The attached are only proposed revisions and all matters are subject to discussion and input from the Planning Commission.

**1. Solar Collector Facilities:**

4-820 Submittal Requirements.

Subsection (C) - Narrative and Impact Analysis

- a. A new subsection (5) requires a description of the defensible space proposed around the perimeter of the solar collector facility. Staff have received questions regarding whether the County requires defensible fence. The Regulations currently do not expressly require the establishment of defensible space. This amendment would require information regarding defensible space at the submittal stage but there is no current proposal that defensible space is part of the solar collector facility standards and therefore, required.
- b. A new subsection (6) requires photos and a description of the type of fencing that will be used on the perimeter of the facility. The issue of what might constitute an acceptable fence from an aesthetic perspective has been expressed by members of the public. No standards are proposed to be adopted only information provided as part of the submittal.
- c. Subsection (E). Staff would like to clarify that a preliminary decommissioning plan can be submitted at the time of the land use permit application. Change to Sec. 4-835 (below) would require a final decommissioning plan prior to submission of any construction permit. Due to the fact the equipment proposed for the permit is not finalized, preliminary decommissioning plans have been submitted as a part of the

applications and final plans with the construction application. This change would conform to the County's current practice.

4-825 Solar Collector Standards.

- a. A new subsection (11)(g) would move the road agreement requirement from the submittal requirements to the standards. Additional language is proposed in the road agreement to allow the Board the option to delay the required pre-construction baseline survey to prior to construction instead of prior to the road agreement. If delayed, no construction permit would be issued until the survey is submitted and approved by Planning and Public Works Departments.

4-835 Decommissioning Requirements for Solar.

- a. As discussed above, the final decommission plan would be submitted prior to any construction permit issued. That plan would need to be updated every 3 years and supplied to the Planning Department.
- b. Amended language in subsection (C) would eliminate the subtraction of the salvage value from the bond. The concern is that if the decommissioning bond has to be used, the County needs to be able to access sufficient monetary resources to cover the entire costs of decommissioning at the beginning of process, not recoup salvage value during and after the decommissioning process.

**2. Battery Energy Storage System (BESS):**

4-855 Submittal Requirements.

- a. Like the proposed revisions in the solar collector facility regulations, subsection (8) allows for the submission of a preliminary decommissioning plan.
- b. As the County has reviewed and approved more BESS facilities, it has developed certain standards in the conditions of approval. Changes to subsections (d) (fire mitigation) and (f) (incident reporting) would insert these standards into the regulations as submittal requirements.

4-860 BESS Standards.

- a. Like the submittal requirements above, the County has consistently required a defensible space of at least 200 feet to surround a BESS facility and the change to subsection (C) would include this in the standards.
- b. The proposed changes to subsection (F) clarify the requirement for a road agreement for BESS facilities.

4-870 Decommissioning Requirements for BESS.

The same amendments are proposed as summarized in the solar collector facility decommissioning requirements.

3. **Wind Energy Facility (WEF):**

4-895 Submittal Requirements.

The same amendments regarding clarification of accepting a preliminary decommissioning plan are proposed as summarized in the solar collector facility and BESS sections above.

4-900 WEF Standards.

- a. In subsection (A), there are some proposed revisions to clarify and expand setbacks for ground-mounted WEF. In particular, there has been discussion surrounding the setbacks from inhabited structures.
- b. Similar revisions proposed for the road agreement associated with solar collector facilities is proposed for WEF – moving it from a submittal requirement and allowing for the delay in the submission of a survey.

4-910 Decommissioning Requirements for WEF.

The same amendments proposed as summarized in the solar collector facility and BESS facility decommissioning requirements are proposed for the WEF.

Nicole Hay  
Morgan County Planning Director

## SOLAR COLLECTOR FACILITY REGULATIONS

### 4-820 Submittal Requirements

- (C) Narrative and Impact Analysis. A narrative, in addition to the requirements of the application permit, including:
- (1) Project description and proposed phasing of development.
  - (2) A description of the project and each phase of development, including the approximate number of solar panels, and the accessory structures, power output (in MW~~WM~~), and infrastructure and interconnection requirements for each phase.
  - (3) Description of potential access route(s), including road surface material, proposed measures for dust control, and proposed road maintenance schedule or program.
  - (4) Impact Analysis. The applicant will provide a description of the impacts that the proposed solar collector may cause, based upon the standards in these Solar Collector Facility and Zoning Regulations. This analysis shall include: a description of baseline conditions and the impacts that the proposed use may cause; a description of how the applicant will mitigate impacts; and documentation that applicable standards will be satisfied. The applicant shall also assess the potential effects of the proposed project on the County services and capital facilities. In the event that impacts to County services or County capital facilities from construction and operation of a solar collector are identified, the applicant shall develop a plan to maintain County services and County capital facilities. If impacts cannot be fully mitigated, the applicant may be required to pay the county a mutually agreed upon impact fee to allow the County to maintain existing County services and capital facilities.
  - (5) Defensible Space. A description of the defensible space to be proposed around the perimeter of the solar collector facility.
  - (6) Fencing. The applicant shall provide a photograph and a description of the type of proposed perimeter fencing of the solar collector facility.
- (E) Decommissioning Plan. The applicant shall provide a preliminary decommissioning plan in accordance with Section 4-835.

### 4-825 Solar Collector Facility Standards

- (D) Principal Ground-Mounted Solar Collectors.
- (7) Maximum Height. The maximum height of the solar panels shall not exceed 30 feet in height or 35 feet in height for agrivoltaics when oriented at maximum tilt.<sup>1</sup>

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<sup>1</sup> Discuss

(11) Roadways and Access.

(f) The use of any County roads during construction shall be in accordance with and in compliance of Federal, State, County and local regulations governing such activities. ~~The applicant will prepare a roads agreement that includes a mitigation plan addressing potential impacts to County roads to be used during construction. As part of the roads agreement, the applicant at their expense will be required to return any County roads that are impacted by construction to their pre-construction baseline condition.~~

(g) Road Agreement. <sup>2</sup> If any County roads will be used during construction of a solar collector facility for the purpose of transporting parts, materials and/or equipment, the applicant owner or operator shall enter into a road agreement with the County. The roads agreement shall comply with Section 4-825 and shall also include the following:

(1) A map showing which County roads will be used during construction.

(2) A pre-construction baseline survey of County roads to be used during construction to document their pre-construction condition. The applicant is responsible for obtaining and paying for the costs of the baseline survey. The Board, when considering approval of the road use agreement, may delay the submission of the baseline survey to prior to construction. If delayed, no construction permit may be issued until the survey is submitted and approved in writing by the Planning and Public Works Departments.

(3) A mitigation plan to address traffic congestion and potential impacts to County roads to be used during construction.

(4) A legally binding agreement between the applicant and the County that requires the applicant to return any County roads to their pre-construction baseline condition.

**4-835 Decommissioning Requirements for Solar Collector Facilities**

(A) General Requirements.

(1) The applicant shall provide a final decommissioning plan in accordance with this Section prior to the submission of any construction permit related to the approved project or earlier if required by the County.

(2) If a solar collector facility ceases to perform its originally intended function for more than 12 consecutive months unless for the purpose of repowering the facility with replacement solar panels or as explicitly agreed to in writing by the County

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<sup>2</sup> Moved from Section 4-820(K)

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Planning Department, the permit holder and/or property owner shall remove the facility, mount and associated equipment and facilities by no later than 270 days after the end of the 12-month period.

- (32) If permit holder and/or property owner notifies the County of the termination of operations, decommissioning shall be completed no less than 180 days from the date of the notice.
  - (43) Upon removal of a solar collector facility, the property shall be restored to the condition prior to development of the facility or as explicitly agreed to in writing by the County Planning Department and landowner.
  - (54) The owner or operator shall update the decommissioning plan every three (3) years and provide a copy of the updated plan to the County Planning Department.
- (C) Decommissioning Bond or Letter of Credit. The decommissioning cost, ~~minus the salvage value~~ of the facility equipment, shall be made by cash, surety bond or irrevocable letter of credit at 50% before construction commences and the remaining 50% prior to the twelfth anniversary of the commencement of construction of the facility.

## BATTERY ENERGY STORAGE SYSTEM (BESS) REGULATIONS

### 4-855 Submittal Requirements

- (9)(8) Decommissioning Plan. The applicant shall provide a A preliminary decommissioning plan in accordance with Section 4-870.
- (10)(9) Emergency Operation Plan. An emergency operation plan including the following:
  - (a) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - (b) Procedures for inspection and testing of associated alarms, interlocks, and controls.
  - (c) Procedures ~~in conformance with Section 4-860~~ to be followed in response to notifications from the BESS management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, and/or summoning service and repair personnel, ~~and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.~~
  - (d) A fire mitigation plan including identification of the nearest water source for fire suppression, or written confirmation from the local

fire department with jurisdiction over the property stating that the site has been evaluated for fire risks and sufficiently mitigated any such risk and emergency notifications to fire department with jurisdiction and other emergency services.<sup>3</sup>

~~(d)~~(e) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. ~~Procedures can include sounding the alarm, notifying the fire department or district, including~~ evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

(f) An incident reporting plan with the minimum standards:

Incidents at BESS facility. The following procedures shall be followed during the operation of a BESS facility:

(1) A minor incident, defined as failure of or fire in one battery container, shall trigger an immediate shutdown of the effected battery container by the operator/ owner. A major incident is defined as occurrence of one or more of the following: 1) a failure of or fire in two or more battery containers, 2) when a fire expands beyond the defensible space required in Section 4-860(D), or 3) an incident at the BESS facility results in an order of evacuation or shelter in place to residents in the vicinity of the facility. A major incident shall trigger an immediate shutdown of the entire BESS facility by the operator/owner.

(2) Upon the occurrence of either type of incident, the owner/operator shall issue an incident notification within three (3) days of the incident. The incident notification will describe the time, duration or nature of incident and must be mailed to all property owners within a half mile of the BESS facility at the addresses of record through the Morgan County Assessor's Office; the County Planning and Zoning Department; the appropriate municipality; the appropriate fire district; Morgan County Sheriff's Office; Morgan County Ambulance Services and Morgan County Emergency Management Department.

(3) Within thirty (30) days of the incident, the applicant shall deliver to the County Planning and Zoning Department an after-action report prepared by a qualified independent third-party with expertise in subject matter and shall identify any

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<sup>3</sup> Moved from Section 4-855(A)(7)

changes to the operations of the BESS facility necessary to maintain life and safety within the BESS facility and the neighboring residential properties. No operations may occur in the battery container or at the BESS facility, as applicable based upon the type of incident, until the after-action report has been considered by the Board of County Commissioners at a noticed public hearing and the Board of County Commissioners approves restarting operations at the BESS facility, or within the battery container. Such decision shall be made based upon the impact of the failure on neighboring residential properties, the threat and continuing threat to public safety, the response to the incident, cause of the failure, and whether the operator or owner has implemented or is in the process of implementing changes to the operations of the BESS facility, or battery container, necessary to maintain life and safety within the BESS facility and neighboring residential properties. Notice of the hearing shall be provided in the same manner as public notice for a permit for a use by special review as provided in the Morgan County Zoning Regulations, as amended. If the Board of County Commissioners decides that the BESS facility or the battery container, as applicable, may not be returned to operation, the Board of County Commissioners may direct the applicant to take any necessary steps to protect the public safety and welfare or alternative, schedule a hearing to revoke this permit.

- ~~(e)~~(g) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- ~~(f)~~(h) Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility.

#### **4-860 Battery Energy Storage System (BESS) Standards**

- (B) All BESS, including all mechanical equipment, shall be enclosed by a minimum of a six (6) foot tall fence with a self-locking gate to prevent unauthorized access, unless housed in a building dedicated to the BESS. No fencing may interfere with any ventilation or exhaust ports.<sup>4</sup>

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<sup>4</sup> Discuss

(D) Defensible Space. The BESS facility must be surrounded by a defensible space of at least 200 feet in width from the edge of the BESS facility, unless a large space is required by the Board. Within this facility, the operator or owner must employ natural material which is nonflammable and will aid in the prevention of fire and suppress any vegetation or other flammable items. Conditions or materials which will create dust, such as the employment of dirt only in the defensible space, are also not permitted.

(F) Roadways and Access. The County may require that the road use agreement for the related solar collector facility govern any road impacts related to the construction of the BESS facility or require a separate road use agreement.

#### **4-870 Decommissioning Requirements for BESS**

(A) The applicant shall provide a final decommissioning plan in accordance with this Section prior to the submission of any construction permit related to the approved project or earlier if required by the County.

(B) Decommissioning Plan. The decommissioning plan shall include:

- (1) Contact information for all parties involved (e.g., landowner, developer, utilities, etc.);
- (2) A detailed plan for the removal of all systems and equipment from the site, including provisions for the removal of structures, debris and cabling including those below the soil surface to depths agreed to in landowner agreements or down twenty-four (24) inches;
- (3) A cost estimate for the decommissioning prepared by a professional engineer or contractor with expertise in related decommissioning projects; and
- (4) Roles and responsibilities of each party involved in the decommissioning.

(5) The owner or operator shall update the decommissioning plan every three (3) years and provide a copy to the County Planning Department.

(C) Decommissioning Bond or Letter of Credit. The decommissioning cost, ~~minus the salvage value~~ of the system, foundation, and associated equipment and facilities, shall be made by cash, surety bond, or irrevocable letter of credit at 50% before construction commences and the remaining 50% prior to the twelfth anniversary of the commencement of construction of the system.

#### **WIND ENERGY FACILITY REGULATIONS**

##### **4-895 Submittal Requirements**

(C) Narrative and Impact Analysis. A narrative, in addition to the requirements of the applicable permit, including:

(4) Impact Analysis. The applicant will provide a description of the impacts that the proposed WEF may cause, based upon the standards in these WEF and Zoning Regulations. This analysis shall include: a description of baseline conditions and the impacts that the proposed use may cause, ~~as described in Section 6-105~~; a description of how the applicant will mitigate impacts; and documentation that applicable standards will be satisfied. The applicant shall also assess the potential effects of the proposed project on County services and capital facilities. In the event that impacts to County services or County capital facilities from construction and operation of a WEF are identified, the applicant shall develop a plan to maintain County services and County capital facilities. If impacts cannot be fully mitigated, the applicant may be required to pay the County a mutually agreed upon impact fee to allow the County to maintain existing County Services and Capital facilities.

(E) Decommissioning Plan. The applicant shall provide a preliminary Decommissioning Plan in accordance with Section 4-910.

**4-900 WEF Standards**

(B) Setbacks from Ground-Mounted WEF.

(1) The setbacks in this subsection shall govern over any setbacks established in these Zoning Regulations.

	Minimum Setback <sup>5</sup>
Setback from above-ground public utility power lines or communication lines	<del>21.1</del> times system height
Setback from existing public road or highway or railroad	<del>21.1</del> times system height
Setback from inhabited buildings including: residence, school, hospital, church or public library	<del>2.5</del> <sup>6</sup> <u>2</u> times system height <u>or 2000 feet, whichever is greater</u>
Setback from public road or highway with ADT of 7,000 or more	<del>21.1</del> times system height <u>or 420 feet, whichever is greater</u>
Setback from all other property lines, unless appropriate easements are secured from adjacent property owners or other acceptable mitigation is approved by the Board	<del>21.1</del> times system height <u>or 1000 feet, whichever is greater</u>

(H) Roadways and Access.

(6) The use of any County roads during construction shall be in accordance with and in compliance of Federal, State, County and local regulations governing such activities. ~~The applicant will prepare a roads agreement that includes a mitigation plan addressing potential impacts to County roads to be used during construction.~~

<sup>5</sup> All redlines except “2.5 times system height” reference Sedgwick County Regulations

<sup>6</sup> 2.5 times the system height is the largest height requirement after checking several counties in the State. This requirement is from Prowers County.

~~As part of the roads agreement, the applicant at their expense will be required to return any County roads that are impacted by construction to their pre-construction baseline condition.~~

- ~~(7) Road Agreement. If any County roads will be used during construction of a WEF for the purpose of transporting parts, materials and/or equipment, the applicant owner or operator shall enter into a road agreement with the County. The roads agreement shall comply with Section 4-900 and shall also include the following:~~
- ~~(a) A map showing which County roads will be used during construction.~~
  - ~~(b) A pre-construction baseline survey of County roads to be used during construction to document their pre-construction condition. The applicant is responsible for obtaining and paying for the costs of the baseline survey. The Board, when considering approval of the road use agreement, may delay the submission of the baseline survey to prior to construction. If delayed, no construction permit may be issued until the survey is submitted and approved in writing by the Planning and Public Works Departments.~~
  - ~~(c) A mitigation plan to address traffic congestion and potential impacts to County roads to be used during construction.~~
  - ~~(a)(d) A legally binding agreement between the applicant and the County that requires the applicant to return any County roads to their pre-construction baseline condition.~~

#### **4-910 Decommissioning Requirements for WEF**

(A) General Requirements.

- ~~(1) The applicant shall provide a final decommissioning plan in accordance with this Section prior to the submission of any construction permit related to the approved project or earlier if required by the County.~~
- ~~(2) If a WEF ceases to perform its originally intended function for more than 12 consecutive months unless for the purpose of repowering the facility with replacement equipment or as explicitly agreed to by the County Planning Department, the permit holder and/or property owner shall remove the facility, mount and associated equipment and facilities by no later than 270 days after the end of the 12-month period.~~
- ~~(32) If permit holder and/or property owner notifies the County of the termination of operations, decommissioning shall be completed no less than 180 days from the date of the notice.~~

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- (43) Upon removal of a WEF, the property shall be restored to the condition prior to development of the facility or as explicitly agreed to by the County Planning Department and landowner.
- (45) The owner or operator shall update the decommissioning plan every three (3) years and provide a copy to the County Planning Department.
- (C) Decommissioning Bond or Letter of Credit. The decommissioning cost of the system, foundation, and associated equipment and facilities shall be made by cash, surety bond or irrevocable letter of credit at 50% before construction commences and the remaining 50% prior to the twelfth anniversary of the commencement of construction of the facility.