

OGLE COUNTY, IL SOLAR FARM SPECIAL USE CONDITIONS

as approved by the Solar Ad Hoc Committee on November 8, 2018

A. Definitions

The below words and terms shall have the following definitions as utilized herein:

NON-ADAPTABLE STRUCTURE: Any STRUCTURE or physical alteration to the land which requires a SPECIAL USE Permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRICT (by right or by SPECIAL USE). This term shall include, but not be limited to, a PV SOLAR FARM.

NOXIOUS WEEDS: Any of several plants designated pursuant to the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.) and that are identified in 8 Illinois Administrative Code 220.

PHOTOVOLTAIC (PV): A type of solar energy system that produces electricity by the use of photovoltaic cells that generate electricity when struck by light.

PV SOLAR FARM: A unified development intended to convert sunlight into electricity by photovoltaic (PV) devices for the primary purpose of wholesale sales of generated electricity. A PV SOLAR FARM is under a common ownership and operating control even though parts of the PV SOLAR FARM may be located on land leased from different owners. A PV SOLAR FARM includes all necessary components including access driveways, solar devices, electrical inverter(s), electrical transformer(s), cabling, a common switching station, maintenance and management facilities, and waterwells. PV SOLAR FARM should be understood to include COMMUNITY PV SOLAR FARM unless specified otherwise in the relevant section or paragraph.

PV SOLAR FARM, COMMUNITY: A PV SOLAR FARM of not more than 2,000 kilowatt nameplate capacity that meets the requirements of 20 ILCS 3855/1-10 for a “community renewable generation project” and provided that two COMMUNITY PV SOLAR FARMS may be co-located on the same or contiguous parcels as either a) two 2-MW projects on one parcel, or b) one 2-MW project on each of two contiguous parcels, as authorized by the Illinois Commerce Commission in Final Order 17-0838 on April 3, 2018.

B. General Standard Conditions

- (1) All proposals and representations made by the applicant(s) and/or their representative(s) shall be conditions of the Special Use Permit.
- (2) The area of the PV SOLAR FARM SPECIAL USE permit must include the following minimum areas:
 - a. All land that will be exposed to a noise level greater than that authorized to Class A land as established by 35 Ill. Admin. Code Parts 900, 901 and 910 under section I.

- b. All necessary access lanes or driveways and any required new PRIVATE ACCESSWAYS. For purposes of determining the minimum area of the special use permit, access lanes or driveways shall be provided a minimum 40 feet wide area.
 - c. All necessary PV SOLAR FARM STRUCTURES and ACCESSORY STRUCTURES including electrical distribution lines, inverters, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY and all water wells that will provide water for the PV SOLAR FARM. For purposes of determining the minimum area of the special use permit, underground cable installations shall be provided a minimum 40 feet wide area.
 - d. All aboveground STRUCTURES and facilities shall be of a type and shall be located in a manner that is consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by section R.
- (3) The PV SOLAR FARM SPECIAL USE permit shall not be located in the following areas:
- a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance unless the following is provided:
 - (a) No part of a PV SOLAR FARM shall be located within any land area designated for urban land use on the future land use map of an adopted municipal comprehensive land use plan other than land designated for industrial use, and there shall be a separation of at least one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for a PV SOLAR FARM located within an industrial zoning district and except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.
 - (b) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.
 - (c) If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Ogle County Board, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Supervisor of Assessments and Planning & Zoning Committee of the Ogle County Board and the County Board.

- b. Less than one-half mile from a Special Flood Hazard Area as designated on the Ogle County, IL Flood Insurance Rate Maps.
- (4) Interconnection to the power grid
 - a. The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant or PV SOLAR FARM is in the queue to acquire an interconnection agreement to the power grid.
 - b. Documentation of an executed interconnection agreement with the appropriate electric utility shall be provided prior to issuance of an ~~Zoning Compliance~~ Occupancy Certificate to authorize operation of the PV SOLAR FARM.
- (5) Right to farm
 - a. The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Farm Nuisance Suit Act (740 ILCS 70/).

C. Minimum Lot Standards

- (1) There are no minimum LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, or maximum LOT COVERAGE requirements for a PV SOLAR FARM or for LOTS for PV SOLAR FARM substations and/ or PV SOLAR FARM maintenance and management facilities.
- (2) There is no maximum LOT AREA requirement on prime farmland as defined by the U.S. Department of Agriculture.

D. Minimum Standard Conditions for Separations for PV SOLAR FARM from adjacent USES and STRUCTURES

The location of each PV SOLAR FARM shall provide the following required separations as measured from the exterior of the above ground portion of the PV SOLAR FARM STRUCTURES and equipment including fencing:

- (1) PV SOLAR FARM fencing shall be set back from the street right-of-way line a minimum of 40 feet from a road/street under township jurisdiction, and a minimum of 60 feet from the right-of-way of a road/highway under Ogle County jurisdiction, and a minimum of 80 feet from the right-of-way of a road/highway under state or federal jurisdiction unless a greater separation is required for screening pursuant to subsection L.(2)a., but in no case shall the perimeter fencing be less than 10 feet from the RIGHT OF WAY of any STREET, road or highway.
- (2) For properties participating in the solar farm: No required separation from any existing DWELLING or existing PRINCIPAL BUILDING except as required to ensure that a minimum zoning lot is provided for the existing DWELLING or PRINCIPAL BUILDING.

- (3) For properties not participating in the solar farm:
- a. For any adjacent LOT that is 10 acres or less in area (not including the STREET RIGHT OF WAY):
 - (a) For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on no more than two sides by the PV SOLAR FARM, the separation shall be no less than 240 feet from the property line.
 - (b) For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on more than two sides by the PV SOLAR FARM, the separation shall exceed 240 feet as deemed necessary by the Zoning Board of Appeals.
 - b. For any adjacent LOT that is more than 10 acres in area (not including the STREET RIGHT OF WAY), the separation shall be no less than 255 feet from any existing DWELLING or existing PRINCIPAL BUILDING and otherwise the perimeter fencing shall be a minimum of 10 feet from a SIDE or REAR LOT LINE. This separation distance applies to properties that are adjacent to or across a STREET from a PV SOLAR FARM.
 - c. Additional separation may be required to ensure that the noise level required by 35 Ill. Admin. Code Parts 900, 901 and 910 is not exceeded or for other purposes deemed necessary by the Zoning Board of Appeals.
- (4) A separation of at least 500 feet from any of the following unless the SPECIAL USE permit application includes results provided from an analysis using the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, Federal Aviation Administration (FAA) Review of Solar Energy Projects on Federally Obligated Airports, or the most recent version adopted by the FAA, and the SGHAT results show no detrimental affect with less than a 500 feet separation from any of the following:
- a. any AIRPORT premises or any AIRPORT approach zone within five miles of the end of the AIRPORT runway; or
 - b. any RESTRICTED LANDING AREA that is NONCONFORMING or which has been authorized by SPECIAL USE permit and that existed on or for which there had been a complete SPECIAL USE permit application received by April 22, 2010, or any approach zone for any such RESTRICTED LANDING AREA; or
 - c. any RESIDENTIAL AIRPORT that existed on or for which there had been a complete SPECIAL USE permit application received by April 22, 2010, or any approach zone for any such RESIDENTIAL AIRPORT.
- (5) A separation of at least 500 feet between substations and transmission lines of greater than 34.5 kVA to adjacent dwellings and residential DISTRICTS.

- (6) Electrical inverters shall be located as far as possible from property lines and adjacent DWELLINGS consistent with good engineering practice. Inverter locations that are less than 275 feet from the perimeter fence shall require specific approval and may require special sound deadening construction and noise analysis.
- (7) Separation distances for any PV SOLAR FARM with solar equipment exceeding 8 feet in height, with the exception of transmission lines which may be taller, shall be determined by the Zoning Board of Appeals on a case-by-case basis.
- (8) PV SOLAR FARM solar equipment other than inverters shall be no less than 26 feet from the property line of any lot more than 10 acres in area.

E. Standard Conditions for Design and Installation of any PV SOLAR FARM.

- (1) Any building that is part of a PV SOLAR FARM shall include as a requirement for an Occupancy Certificate a certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer or other qualified professional that the constructed building conforms to Public Act 96-704 regarding building code compliance and conforms to the Illinois Accessibility Code.
- (2) Electrical Components
 - a. All electrical components of the PV SOLAR FARM shall conform to the National Electrical Code as amended and shall comply with Federal Communications Commission (FCC) requirements.
 - b. Electric solar farm components must have a UL listing or equivalent and must be designed with anti-reflective coating(s).
 - c. Burying power and communication wiring underground shall be minimized consistent with best management practice regarding PV solar farm construction and minimizing impacts on agricultural drainage tile.
- (3) Maximum height. No aspect or component of a solar farm shall exceed 15 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to transmission lines.
- (4) Warnings. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (5) No construction may intrude on any easement or right of way for a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE, an underground water main or sanitary sewer, a drainage district ditch or tile, or any other public utility facility unless specifically authorized by a crossing agreement that has been entered into with the relevant party.
- (6) Lighting: Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the property upon which the solar farm is located.

- (7) The solar farm owner/operator shall provide approval for access points and change in access use from the road or highway authority having jurisdiction.
- (8) The owner/operator of the solar farm shall provide for and maintain reasonable means of access for emergency services.
- (9) During construction of the solar farm, construction activities shall commence no earlier than 7:00 A.M. and shall be discontinued no later than 7:00 P.M.

F. Stormwater Management, Retention of Topsoil and Minimizing Disturbance to Prime Farmland

(1) Stormwater Management

Best management practices shall be employed to minimize erosion and sedimentation during construction of the solar farm. A Drainage Permits will be required to be issued by the Ogle County Engineer for compliance with the Ogle County Stormwater Management Ordinance.

(2) Retention of all topsoil

No topsoil may be removed, stripped, or sold from the proposed SPECIAL USE Permit site pursuant to or as part of the construction of the PV SOLAR FARM.

(3) Minimizing disturbance to PRIME FARMLAND as defined by the U.S. Department of Agriculture

a. Any PV SOLAR FARM to be located on PRIME FARMLAND shall minimize the disturbance to PRIME FARMLAND as follows:

(a) The disturbance to PRIME FARMLAND caused by construction and operation of the PV SOLAR FARM shall be minimized at all times consistent with good engineering practice.

(b) Disturbance to PRIME FARMLAND shall be offset by establishment of a vegetative ground cover within the PV SOLAR FARM that includes the following:

i. The vegetative ground cover shall use native plant species as much as possible and shall be based on a site assessment of the site geography and soil conditions.

ii. The species selected shall serve a secondary habitat purpose as much as possible.

iii. Maintenance of the vegetative ground cover shall use a combination of management approaches to ensure safe, cost-effective, reliable maintenance while minimizing environmental risks.

- iv. The plan to establish and maintain a vegetative ground cover that includes native plant species as much as possible shall be detailed in a landscape plan included in the PV SOLAR FARM SPECIAL USE permit application. The landscape plan shall include the weed control plan required by subsection O.(3).
- v. The Ogle County Soil & Water Conservation District shall be consulted for appropriate vegetative ground cover species selections.

G. Standard Conditions for Coordination with Local Fire Protection District

- (1) The Applicant shall submit to the local fire protection district a copy of the site plan.
- (2) Upon request by the local fire protection district, the Owner or Operator shall cooperate with the local fire protection district to develop the fire protection district's emergency response plan.
- (3) Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

H. Standard Conditions for Allowable Noise Level

- (1) Noise levels from any PV SOLAR FARM shall be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 Illinois Administrative Code Subtitle H: Noise Parts 900, 901, 910).
- (2) The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics of proposed PV SOLAR FARM equipment necessary for a competent noise analysis.
- (3) The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise requirements as follows:
 - a. The SPECIAL USE permit application for other than a COMMUNITY PV SOLAR FARM shall include a noise analysis that includes the following:
 - (a) The pre-development 24-hour ambient background sound level shall be identified at representative locations near the site of the proposed PV SOLAR FARM.
 - (b) Computer modeling shall be used to generate the anticipated sound level resulting from the operation of the proposed PV SOLAR FARM within 1,500 feet of the proposed PV SOLAR FARM.

- (c) Results of the ambient background sound level monitoring and the modeling of anticipated sound levels shall be clearly stated in the application and the application shall include a map of the modeled noise contours within 1,500 feet of the proposed PV SOLAR FARM.
 - (d) The application shall also clearly state the assumptions of the computer model's construction and algorithms so that a competent and objective third party can as simply as possible verify the anticipated sound data and sound levels.
- b. For a COMMUNITY PV SOLAR FARM the Zoning Board of Appeals may require submission of a noise analysis that meets the standard of subsection H.(3)a.
- (4) After construction of the PV SOLAR FARM, the Zoning Administrator shall take appropriate enforcement action as necessary to investigate noise complaints in order to determine the validity of the complaints and take any additional enforcement action as proves warranted to stop any violation that is occurring, including but not limited to the following:
- a. The Zoning Administrator shall make the Supervisor of Assessments and Planning & Zoning Committee of the Ogle County Board aware of complaints about noise that have been received by the Complaint Hotline.
 - b. If the Supervisor of Assessments and Planning & Zoning Committee of the Ogle County Board determines that the noise is excessive, the Supervisor of Assessments and Planning & Zoning Committee shall require the Owner or Operator to take reasonable steps to mitigate the excessive noise.

I. Standard Conditions for Endangered Species Consultation

The Applicant shall apply for consultation with the Endangered Species Program of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources or, if applicable, a copy of the Detailed Action Plan Report submitted to the Endangered Species Program of the Illinois Department of Natural Resources and a copy of the response from the Illinois Department of Natural Resources.

J. Standard Conditions for Historic and Archaeological Resources Review

The Applicant shall apply for consultation with the State Historic Preservation Officer of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report from the State Historic Preservation Officer of the Illinois Department of Natural Resources.

K. Standard Conditions for Acceptable Wildlife Impacts

The PV SOLAR FARM shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife to a sustainable level of mortality.

L. Screening and fencing

- (1) Perimeter fencing
 - a. PV SOLAR FARM equipment and structures shall be fully enclosed and secured by a fence with a minimum height of 7 feet.
 - b. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
 - c. Vegetation between the fencing and the LOT LINE shall be maintained such that NOXIOUS WEEDS are controlled or eradicated consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.). Management of the vegetation shall be explained in the application.
 - d. The required fence surrounding the solar farm shall be maintained to prevent the growth of woody vegetation within and along the fence.

- (2) Screening
 - a. A visual screen shall be provided around the perimeter of the PV SOLAR FARM as follows:
 - (a) The visual screen shall be provided for any part of the PV SOLAR FARM that is visible to and located within 1,000 feet of an existing DWELLING or residential DISTRICT except that the visual screen may not be required within the full 1,000 feet of an existing DWELLING or residential DISTRICT provided the applicant submits a landscape plan prepared by an Illinois Registered Landscape Architect and the Zoning Board of Appeals finds that the visual screen in the landscape plan provides adequate screening. However, the visual screen shall not be required if the PV SOLAR FARM is not visible to a DWELLING or residential DISTRICT by virtue of the existing topography.
 - (b) The visual screen shall be waived if the owner(s) of a relevant DWELLING(S) have agreed in writing to waive the screening requirement and a copy of the written waiver is submitted to the Zoning Board of Appeals or Ogle County Board.
 - (c) The visual screen shall be a vegetated buffer as follows:
 - i. A vegetated visual screen buffer that shall include 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 and/or an area of agricultural crop production that will conceal the PV SOLAR FARM from view from adjacent abutting property may be authorized as an alternative visual screen subject to specific conditions.

- ii. Any vegetation that is part of the approved visual screen buffer shall be maintained in perpetuity of the PV SOLAR FARM. If the evergreen foliage below a height of 7 feet disappears over time, the screening shall be replaced.
- iii. The continuous line of native evergreen foliage and/or native shrubs and/or native trees shall be planted at a minimum height of 5 feet tall and shall be planted in multiple rows as required to provide a 50% screen within 2 years of planting. The planting shall otherwise conform to Natural Resources Conservation Service Practice Standard 380 Windbreak/Shelterbreak Establishment except that the planting shall be located as close as possible to the PV SOLAR FARM fence while still providing adequate clearance for maintenance.
- iv. A planting of tall native grasses and other native flowering plants may be used as a visual screen buffer for any PV module installation that is no more than 8 feet tall provided that the width of planting shall be as authorized by the Zoning Board of Appeals and the planting shall otherwise be planted and maintained per the recommendations of the Natural Resources Conservation Service Practice Standard 327 Conservation Cover and further provided that the PV SOLAR FARM perimeter fence is opaque.
- v. An area of agricultural crop production may also be authorized by the Zoning Board of Appeals as an alternative visual screen buffer with a width of planting as authorized by the Zoning Board of Appeals provided that the PV SOLAR FARM perimeter fence is opaque. Any area of crop production that is used as a vegetated visual screen shall be planted annually and shall be replanted as necessary to ensure a crop every year regardless of weather or market conditions.
- vi. Any vegetated screen buffer shall be detailed in a landscape plan drawing that shall be included with the PV SOLAR FARM SPECIAL USE permit application.

M. Standard Conditions to Minimize Glare

- (1) The design and construction of the PV SOLAR FARM shall minimize glare that may affect adjacent properties and the application shall include an explanation of how glare will be minimized.
- (2) After construction of the PV SOLAR FARM, the Zoning Administrator shall take appropriate enforcement action as necessary to investigate complaints of glare in order to determine the validity of the complaints and take any additional enforcement action as proves warranted to stop any significant glare that is occurring, including but not limited to the following:

- a. The Zoning Administrator shall make the Supervisor of Assessments and Planning & Zoning Committee aware of complaints about glare that have been received by the Complaint Hotline.
- b. If the Supervisor of Assessments and Planning & Zoning Committee determines that the glare is excessive, the Supervisor of Assessments and Planning & Zoning Committee shall require the Owner or Operator to take reasonable steps to mitigate the excessive glare such as the installation of additional screening.

N. Standard Condition for Liability Insurance

- (1) The Owner or Operator of the PV SOLAR FARM shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of at least \$5 million per occurrence and \$5 million in the aggregate.
- (2) The general liability policy shall identify landowners in the SPECIAL USE permit as additional insured.

O. Operational Standard Conditions

- (1) Maintenance
 - a. The Owner or Operator of the PV SOLAR FARM must submit, on an annual basis, a summary of operation and maintenance reports to the Supervisor of Assessments and Planning & Zoning Committee and any other operation and maintenance reports as the Supervisor of Assessments and Planning & Zoning Committee reasonably requests.
 - b. Any physical modification to the PV SOLAR FARM that increases the number of solar conversion devices or structures and/or the land area occupied by the PV SOLAR FARM shall require a new SPECIAL USE Permit. Like-kind replacements shall not require re-certification nor will replacement of transformers, cabling, etc. provided replacement is done in a fashion similar to the original installation.
 - c. The Application shall explain methods and materials used to clean the PV SOLAR FARM equipment including an estimation of the daily and annual gallons of water used and the source of the water and the management of wastewater. The Zoning Board of Appeals may request copies of well records from the Illinois State Water Survey and may require an estimate by a qualified hydrogeologist of the likely impact on adjacent water wells.
- (2) Materials Handling, Storage and Disposal
 - a. All solid wastes related to the construction, operation and maintenance of the PV SOLAR FARM shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

- b. All hazardous materials related to the construction, operation and maintenance of the PV SOLAR FARM shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(3) Vegetation management

- a. The PV SOLAR FARM SPECIAL USE permit application shall include a weed control plan for the total area of the SPECIAL USE permit including areas both inside of and outside of the perimeter fencing.
- b. The weed control plan shall ensure the control and/or eradication of NOXIOUS WEEDS consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.)
- c. The weed control plan shall be explained in the application.

(4) Points of Contact

The solar farm owner/operator shall maintain with the Ogle County Planning & Zoning Department and Sheriff's Department a primary and two (2) secondary points of contact. This information shall be kept current at all times, and changes shall be reported immediately or as soon as possible.

P. Standard Condition for Decommissioning and Site Reclamation Plan

- (1) The Applicant shall submit a signed decommissioning and site reclamation plan conforming to the requirements of section T. herein.
- (2) In addition to the purposes listed in subsection T.(4) the decommissioning and site reclamation plan shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the PV SOLAR FARM and all costs related to removal of access driveways.
- (3) The decommissioning and site reclamation plan required in section T. shall also include the following:
 - a. A stipulation that the applicant or successor shall notify the Ogle County Board by certified mail of the commencement of voluntary or involuntary bankruptcy proceeding, naming the applicant as debtor, within ten days of commencement of the proceeding.
 - b. A stipulation that the applicant shall agree that the sale, assignment in fact or law, or such other transfer of applicant's financial interest in the PV SOLAR FARM shall in no way affect or change applicant's obligation to continue to comply with the terms of this plan. Any successor in interest, assignee, and all parties to the decommissioning and site reclamation plan shall assume the terms, covenants, and obligations of this plan and agrees to assume all reclamation liability and responsibility for the PV SOLAR FARM.

- c. Authorization for the Ogle County Board and its authorized representatives for right of entry onto the PV SOLAR FARM premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.
- d. A stipulation that the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.
- e. A stipulation that the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall be obliged to perform the work in the decommissioning and site reclamation plan before abandoning the PV SOLAR FARM or prior to ceasing production of electricity from the PV SOLAR FARM, after it has begun, other than in the ordinary course of business. This obligation shall be independent of the obligation to pay financial assurance and shall not be limited by the amount of financial assurance. The obligation to perform the reclamation work shall constitute a covenant running with the land.
- f. The decommissioning and site reclamation plan shall provide for payment of any associated costs that Ogle County may incur in the event that decommissioning is actually required. Associated costs include all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work and shall include but not be limited to attorney's fees; construction management and other professional service fees; and the costs of preparing requests for proposals and bidding documents required to comply with state law or Ogle County purchasing policies.
- g. The depth of removal of foundation concrete below ground shall be a minimum of 54 inches. The depth of removal of foundation concrete shall be certified in writing by an Illinois Licensed Professional Engineer and the certification shall be submitted to the Zoning Administrator.
- h. Underground electrical cables at a depth of 5 feet or greater may be left in place.
- i. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows:
 - (a) The excavation resulting from the removal of foundation concrete shall only be backfilled with subsoil and topsoil in similar depths and similar types as existed at the time of the original PV SOLAR FARM construction except that a lesser quality topsoil or a combination of a lesser quality topsoil and a subsoil that is similar to the native subsoil may be used at depths corresponding to the native subsoil but not less than 12 inches below grade.
 - (b) The native soils excavated at the time of the original PV SOLAR FARM construction may be used to backfill the concrete foundation excavations at the time of decommissioning provided that the soils are adequately stored throughout the operating lifetime of the PV SOLAR FARM. The

methods for storing the excavated native soils during the operating lifetime of the PV SOLAR FARM shall be included in the decommissioning and site reclamation plan.

- (c) If the excavated native soils are not stored for use for backfilling the concrete foundation excavations, a qualified soil scientist or Illinois Licensed Professional Engineer shall certify that the actual soils used to backfill the concrete foundation excavations are of equal or greater quality than the native soils or that, in the case of subsoil, the backfill soil meets the requirements of this section. The certification shall be submitted to the Zoning Administrator.
 - (d) An Illinois Licensed Professional Engineer of Ogle County's choosing shall certify in writing that the concrete foundation excavations have been backfilled with soil to such a depth and with a minimum of compaction that is consistent with the restoration of productive agricultural use such that the depth of soil is expected to be no less than 54 inches within one year after backfilling.
 - j. A stipulation that should the decommissioning and site reclamation plan be deemed invalid by a court of competent jurisdiction the PV SOLAR FARM SPECIAL USE permit shall be deemed void.
 - k. A stipulation that the Applicant's obligation to complete the decommissioning and site reclamation plan and to pay all associated costs shall be independent of the Applicant's obligation to provide financial assurance.
 - l. A stipulation that the liability of the Applicant's failure to complete the decommissioning and site reclamation plan or any breach of the decommissioning and site reclamation plan requirement shall not be capped by the amount of the financial assurance.
 - m. If the Applicant desires to remove equipment or property credited to the estimated salvage value without the concurrent replacement of the property with property of equal or greater salvage value, or if the Applicant installs equipment or property increasing the cost of decommissioning after the PV SOLAR FARM begins to produce electricity, at any point, the Applicant shall first obtain the consent of the Zoning Administrator. If the Applicant's lien holders remove equipment or property credited to the salvage value, the Applicant shall promptly notify the Zoning Administrator. In either of these events, the total financial assurance shall be adjusted to reflect any change in total salvage value and total decommissioning costs resulting from any such removal or installation.
- (4) To comply with subsection T.(5), the Applicant shall provide financial assurance in the form of a cash bond, a performance bond or similar financial assurance as follows:
- a. At the time of Special Use Permit approval, the amount of financial assurance to be provided for the decommissioning and site reclamation plan shall be 125% of

the decommissioning cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in subsections T.(4)a. and T.(4)b. and T.(4)c. and shall otherwise be compliant with subsection T.(5)

- b. The Ogle County Board has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.
- c. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:
 - (a) At least once every three years for the first 12 years of the financial assurance and at least once every two years thereafter or, if the SOLAR PV modules have an unlimited warranty of at least 10 years and also have a limited power warranty to provide not less not than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Certificate approval, then at least once every five years for the first 25 years of the financial assurance and at least once every two years thereafter, the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of decommissioning costs and salvage value, by including any changes due to inflation and/or change in salvage price. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator.
 - (b) At all times, the value of the cash bond, performance bond or similar financial assurance shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation based on the Consumer Price Index since the PV SOLAR FARM was approved.
- d. The long term corporate debt (credit) rating of the cash bond, performance bond or similar financial assurance issuing financial institution by both Standard & Poor's Financial Services LLC (S&P) and Moody's Investors Service (Moody's) shall be equal to or greater than the minimum acceptable long term corporate debt (credit) rating, as follows:
 - (a) The Zoning Administrator shall verify the long term corporate debt (credit) rating of the proposed financial institution by both Standard & Poor's Financial Services LLC (S&P) and Moody's Investors Service (Moody's).
 - (b) The minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A2" by Moody's.

- (c) Whenever the most current long term corporate debt (credit) rating of the proposed financial institution by either S&P or Moody's is lower than the minimum acceptable long term corporate debt (credit) rating, the cash bond, performance bond or similar financial assurance shall be replaced with a new cash bond, performance bond or similar financial assurance from an issuing financial institution whose most current long term corporate debt (credit) rating by either S&P or Moody's meets or exceeds the minimum acceptable long term corporate debt (credit) rating,
 - f. At all times the value of the cash bond, performance bond or similar financial assurance shall be increased annually as necessary to reflect actual rates of inflation over the life span of the PV SOLAR FARM and the amount shall be equal to or exceed 125% of the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the PV SOLAR FARM was approved.
 - g. Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to subsection P.(4)c., the amount of the cash bond, performance bond or similar financial assurance pursuant to this subsection P.(4) shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.
 - h. Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by section Q. shall count towards the total financial assurance required for compliance with subsection T.(5).
 - i. Unless the Ogle County Board approves otherwise, the Ogle County State's Attorney's Office shall review and approve every cash bond, performance bond or similar financial assurance prior to acceptance by the Zoning Administrator.
- (5) In addition to the conditions listed in subsection T.(9) the Zoning Administrator may also draw on the funds for the following reasons:
- a. In the event that any PV SOLAR FARM or component thereof ceases to be functional for more than six consecutive months after it starts producing electricity and the Owner is not diligently repairing such PV SOLAR FARM or component.
 - b. In the event that the Owner declares the PV SOLAR FARM or any PV SOLAR FARM component to be functionally obsolete for tax purposes.
 - c. There is a delay in the construction of any PV SOLAR FARM of more than 6 months after construction on that PV SOLAR FARM begins.
 - d. Any PV SOLAR FARM or component thereof that appears in a state of disrepair or imminent collapse and/or creates an imminent threat to the health or safety of the public or any person.

- e. Any PV SOLAR FARM or component thereof that is otherwise derelict for a period of 6 months.
 - f. The PV SOLAR FARM is in violation of the terms of the PV SOLAR FARM SPECIAL USE permit for a period exceeding ninety (90) days.
 - g. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan has failed to maintain financial assurance in the form and amount required by the special use permit or compromised the COUNTY's interest in the decommissioning and site reclamation plan.
 - h. The COUNTY discovers any material misstatement of fact or misleading omission of fact made by the Applicant in the course of the special use permit zoning case.
 - ~~i. The Applicant has either failed to receive a copy of the certification of design compliance required by section D. or failed to submit it to the County within 6 consecutive months of receiving a Zoning Certificate regardless of the efforts of the Applicant to obtain such certification. *Note: appears to be an inadvertent carry-over from wind farm ordinance provision.*~~
- (6) The Zoning Administrator may, but is not required to, deem the PV SOLAR FARM abandoned, or the standards set forth in subsection P.(5) met, with respect to some, but not all, of the PV SOLAR FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to that portion of the PV SOLAR FARM only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining PV SOLAR FARM.
 - (7) The Decommissioning and Site Reclamation Plan shall be included as a condition of approval by the Zoning Board of Appeals and the signed and executed cash bond, performance bond or similar financial assurance and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Certificate approval.

Q. Agricultural Impact Mitigation Agreement (AIMA) with the Illinois Department of Agriculture.

- (1) The Applicant shall enter into an AIMA with the Illinois Department of Agriculture.
- (2) The Applicant shall bear full responsibility for coordinating any special conditions required in the SPECIAL USE Permit in order to ensure compliance with the signed AIMA with the Illinois Department of Agriculture.
- (3) All requirements of the signed AIMA with the Illinois Department of Agriculture shall become requirements of the SPECIAL USE Permit.
- (4) Ogle County shall have the right to enforce all requirements of the signed AIMA with the Illinois Department of Agriculture.

R. Complaint Hotline

- (1) Prior to the commencement of construction on the PV SOLAR FARM and during the entire term of the SPECIAL USE permit and any extension, the Applicant and Owner shall establish a telephone number hotline for the general public to call with any complaints or questions.
- (2) The telephone number hotline shall be publicized and posted at the operations and maintenance center and the construction marshalling yard.
- (3) The telephone number hotline shall be manned during usual business hours and shall be an answering recording service during other hours.
- (4) Each complaint call to the telephone number hotline shall be logged and identify the name and address of the caller and the reason for the call.
- (5) All calls shall be recorded and the recording shall be saved for transcription for a minimum of two years.
- (6) A copy of the telephone number hotline shall be provided to the Zoning Administrator on a monthly basis.
- (7) The Applicant and Owner shall take necessary actions to resolve all legitimate complaints.

S. Standard Condition for Expiration of PV SOLAR FARM County Board SPECIAL USE Permit

A PV SOLAR FARM SPECIAL USE Permit designation shall expire in 2 years if no Zoning Certificate is granted.

T. Decommissioning and Site Reclamation Plan for NON-ADAPTABLE STRUCTURES

- (1) In the course of Zoning Board of Appeals review of a SPECIAL USE request, the Zoning Board of Appeals may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any PV SOLAR FARM shall be a NON-ADAPTABLE STRUCTURE. The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall submit a decommissioning and site reclamation plan to the Zoning Board of Appeals for the subject site.
- (2) The decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the decommissioning and site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a cash bond, a performance bond or similar financial assurance be provided for financial assurance.

- (3) Separate cost estimates for subsections T.(4)a., T.(4)b. and T.(4)c. shall be provided by an Illinois Licensed Professional Engineer.
 - a. Cost estimates provided shall be subject to approval of the Zoning Board of Appeals.
 - b. Except as provided in section P., the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.
- (4) The decommissioning and site reclamation plan shall provide for:
 - a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and interim soil erosion control;
 - b. below-ground restoration, including final grading and surface treatment;
 - c. any environmental remediation required by State or Federal law;
 - d. provision and maintenance of a cash bond, a performance bond or similar financial assurance, as set forth in subsection T.(5).
- (5) No Zoning Certificate for such SPECIAL USE will be issued until the applicant provides the COUNTY with a cash bond, a performance bond or similar financial assurance to be drawn upon a federally insured financial institution within 200 miles of Oregon, Illinois or reasonable anticipated travel costs shall be added to the amount of the cash bond, performance bond or similar financial assurance.
 - a. Unless specified elsewhere in this Ordinance, the cash bond, performance bond or similar financial assurance shall be in the amount of **one hundred fifty percent (150%)** of an independent engineer's cost estimate to complete the work described in subsections T.(4)a., T.(4)b. and T.(4)c.
 - b. The provisions of this subsection notwithstanding, a different amount may be required as a special condition.
 - c. The cash bond, performance bond or similar financial assurance, or a successor cash bond, performance bond or similar financial assurance pursuant to subsection T.(6) or T.(14), shall remain in effect and shall be made available to the COUNTY for a term specified as a standard condition elsewhere in this ordinance, an indefinite term, or for a different term that may be required as a special condition.
- (6) One hundred eighty (180) days prior to the expiration date of a cash bond, performance bond or similar financial assurance submitted pursuant to this section, the Zoning Administrator shall notify the landowner or applicant in writing and request information about the landowner or applicant's intent to renew the cash bond, performance bond or similar financial assurance, or remove the NON-ADAPTABLE STRUCTURE. The landowner or applicant shall have thirty (30) days to respond in writing to this request. If the landowner or applicant's intention is to remove the NON-ADAPTABLE

STRUCTURE, the landowner or applicant will have a total of ninety (90) days from the date of response to remove it in accordance with subsection T.(4)a. At the end of ninety (90) days, the Zoning Administrator shall have a period of sixty (60) days to either:

- a. confirm that the bank has renewed the cash bond, performance bond or similar financial assurance; or
- b. inspect the subject property for compliance with subsection T.(4)a.;
- c. draw on the cash bond, performance bond or similar financial assurance and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to subsection T.(4)a.

(7) The Zoning Administrator may find a NON-ADAPTABLE STRUCTURE abandoned in place. Factors to be considered in making this finding include, but are not limited to:

- a. the nature and frequency of use as set forth in the application for SPECIAL USE;
- b. the current nature and frequency of use;
- c. whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to public health or safety;
- d. whether the NON-ADAPTABLE STRUCTURE has been maintained in a manner which allows it to be used for its intended purpose, with no greater effects on surrounding properties and the public as a whole than was originally intended.
- e. A court of law, an arbitrator, mediator, or any state or Federal agency charged with enforcing State or Federal law has made a finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-ADAPTABLE STRUCTURE relating to its use or denying the NON-ADAPTABLE STRUCTURE a permit necessary for its lawful operation.

(8) Once the Zoning Administrator has made a finding that a NON-ADAPTABLE STRUCTURE is abandoned in place, the Zoning Administrator shall issue notice to the land owner at the owner's last known address, lessees, any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan, that the COUNTY will draw on the performance guarantee within thirty (30) days unless the owner appeals the Zoning Administrator's finding, pursuant to Section 16-9-5 of the Ogle County Code or enters into a written agreement with the COUNTY to remove such NON-ADAPTABLE STRUCTURE in accordance with subsection T.(4) within ninety (90) days and removes the NON-ADAPTABLE STRUCTURE accordingly.

- (9) The Zoning Administrator may draw on the funds to have said NON-ADAPTABLE STRUCTURE removed as per subsection T.(4) of the decommissioning and site reclamation plan when any of the following occur:
- a. no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;
 - b. the land owner does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE structure as provided in subsection T.(8);
 - c. any breach or performance failure of any provision of the decommissioning and site reclamation plan;
 - d. the owner of record has filed a bankruptcy petition, or compromised the COUNTY's interest in the cash bond, performance bond or similar financial assurance in any way specifically allowed by the decommissioning and site reclamation plan;
 - e. a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;
 - f. the owner of record has failed to replace an expiring cash bond, performance bond or similar financial assurance within the deadlines set forth in subsection T.(6); or
 - g. any other conditions to which the COUNTY and the land owner mutually agree, as set forth in the decommissioning and site reclamation plan.
- (10) Once the cash bond, performance bond or similar financial assurance has been drawn upon, and the site has been restored to its original condition, as certified by the Zoning Administrator, the covenant entered into pursuant to subsection T.(2) shall expire, and the COUNTY shall act to remove said covenant from the record of the property at the Recorder of Deeds within forty-five (45) days.
- (11) The proceeds of the cash bond, performance bond or similar financial assurance may only be used by the COUNTY to:
- a. remove the NON-ADAPTABLE STRUCTURE and return the site to its condition prior to the placement of the NON-ADAPTABLE STRUCTURE, in accordance with the most recent decommissioning and site reclamation plan submitted and accepted in relation to the NON-ADAPTABLE STRUCTURE;
 - b. pay all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work, which shall include, but not be limited to, attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposal and bidding documents required to comply with state law or Ogle County purchasing policies; and

c. remove any covenants placed on the title in conjunction with subsection T.(2).

The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the cash bond, performance bond or similar financial assurance.

- (12) No dispute as to the necessity or reasonableness of any costs of performing the site reclamation work identified in subsection T.(11) shall impair the ability of Ogle County to draw on the Financial Assurance.
- (13) In accordance with the provisions of the Illinois Mechanic's Lien Act, 770 ILCS 60/1 and 60/7, the Applicant or successors in interest agree that any contractor retained by Ogle County to perform the decommissioning and site reclamation work in subsection T.(11) shall have a lien upon the Project to the full extent of all costs of performing the decommissioning and site reclamation work identified in subsection T.(11) , and that such lien shall be superior to any claim or lien of any other creditor, incumbrancer or purchaser.
- (14) Upon transfer of any property subject to a cash bond, performance bond or similar financial assurance pursuant to this section, the new owner or applicant of record shall submit a new cash bond, performance bond or similar financial assurance of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall submit a new decommissioning and site reclamation plan, pursuant to subsection T.(4)a., and section P. Once the new owner or applicant of record has done so, the cash bond, performance bond or similar financial assurance posted by the previous owner or applicant shall be released, and the previous owner shall be released from any further obligations under the decommissioning and site reclamation plan.
- (15) The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.
- (16) Should the decommissioning and site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE permit shall be deemed void.

U. Indemnification

The owner/operator of the solar farm shall defend, indemnify and hold harmless the County of Ogle and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney's fees arising out of the acts and/or omissions of the Owner and/or Operator concerning the operation of the solar farm without limitation, whether said liability is premised on contract or on tort.