

Ogle County, IL Solar Farm Special Use Conditions - Including amendments approved by the Solar Ad Hoc Committee on October 23, 2018 and including all suggested amendments of Attorney Mike Shalbrack.

*The following conditions are what may reasonably be expected to be recommended by the Ogle County Planning & Zoning Department to the Zoning Board of Appeals as conditions to be applied to the approval of a Special Use for a Solar Farm. Screening/landscaping requirements or other requirements to mitigate the impact of the proposed use on the surrounding area may be added as an additional condition or additional conditions if warranted.*

1. General Provisions:

All proposals and representations made by the applicant and/or their representative shall be conditions of the Special Use Permit.

2. Development Standards

The following standards shall apply:

- A. Height: No aspect or component of a solar farm shall exceed 20 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.
- B. Setbacks: All aspects and components of a solar farm (excluding fences) shall be set back a minimum 40 feet from the right-of-way line of a township jurisdiction road, a minimum of 60 feet from the right-of-way line of a county jurisdiction road, and a minimum of 80 feet from a state/federal jurisdiction road.
- C. Yard Area Requirements: All aspects and components of a solar farm (excluding fences) shall be located a minimum of 50 feet from any interior property line.
- D. Residential Buffer:
  - 1) All aspects and components of a solar farm (excluding fences) shall maintain a **minimum** buffer distance of 150 feet from the property line of any parcel of 20 acres in area or less containing a **an existing** dwelling, other than a parcel owned by the owner, operator or lessor of the solar farm;
  - 2) All aspects and components of a solar farm (excluding fences) shall maintain a **minimum** buffer distance of 150 feet from the property line of any **vacant** parcel **of 20 acres in area or less that is** zoned for ~~non-farm~~ residential use (IA, R-1, R-2, R-3 or R-4) or determined to be eligible to

have a ~~non-farm~~ dwelling constructed upon it as determined at the time of filing for a Special Use, other than a parcel owned by the owner, operator or lessor of the solar farm.

- 3) All aspects and components of a solar farm (excluding fences) shall maintain a **minimum** buffer distance of 200 feet from any **existing** dwelling (as measured from the closest exterior wall) other than a dwelling owned by the owner, operator or lessor of the solar farm.

E. Approved Solar Components:

- 1) Electric solar farm components must have a UL listing or equivalent and must be designed with anti-reflective coating(s).
- 2) Building and electrical plans for the solar farm shall be in compliance with all required building and electrical codes for the State of Illinois.

F. 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.

G. 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, **and with approval from the Ogle County Soil & Water Conservation District.**

H. Vegetative Cover, Vegetative Maintenance and Weed Control: All areas occupied by the solar farm that are not utilized for access to operate and maintain the solar farm shall be planted and maintained with native ~~warm-season~~ grass(es) and/or other vegetation for the purpose of soil stabilization or other methods approved by the Planning & Zoning Administrator and/or County Engineer, **and with approval from the Ogle County Soil & Water Conservation District.**

The solar farm owner/operator shall provide for weed control in a manner that prevents the spread of weeds onto agricultural land affected by the construction, operation or decommissioning of the solar farm. Spraying shall be done by a pesticide applicator that is appropriately licensed for doing such work in the State of Illinois.

The required fence surrounding the solar farm shall be maintained to prevent the growth of woody vegetation within and along the fence.

- I. Zoning Certificate and Occupancy Certificate: Prior to construction of the solar farm, a Zoning Certificate (permit) shall be issued by the Planning & Zoning Department. All aspects and components of a solar farm shall require engineering certified by a registered engineer or other certified professional. Upon completion of construction of the solar farm and prior to placing into service, an Occupancy Certificate shall be issued by the Planning & Zoning Department. A "certificate of inspection" from a qualified inspector as defined pursuant to 20 ILCS 3105/10.09-1 is required to be submitted before an Occupancy Certificate will be issued. **Additionally, all applicable requirements set forth in these Conditions shall have been satisfied by the solar farm owner/operator.**
- J. Utility Notification: Unless the applicant is a public utility, no Zoning Certificate to construct a solar farm shall be issued until evidence has been provided to the Planning & Zoning Department that the applicant 1) has entered into a power purchase agreement (PPA) with the appropriate utility if a utility-scale solar farm or 2) has been approved for utility interconnection by the appropriate utility if a community solar farm.
- K. Decommissioning:
- 1) The owner or operator of a solar farm shall completely decommission the solar farm within ~~eighteen (18)~~ **twelve (12)** months if any of the following conditions ("decommissioning triggers") exist:
    - a. The solar farm ceases to generate electricity for a continuous period of ~~twelve (12)~~ **six (6)** consecutive months;
    - b. The land lease ends, **or contract with the Developer or owner/operator of the solar farm expires or is terminated;**
    - c. The solar farm is damaged and will not be repaired or replaced **within a six (6) month period of time.**
    - d. **The owner/operator and Landowner have failed to provide a bond as further described below, or has failed to renew such bond, or has failed to provide evidence of a current bond in the appropriate amount to the County of Ogle;**
    - e. **The owner/operator has defaulted on its lease or contract with the Landowner and has failed to cure such default after thirty (30) days prior notice of default;**
    - f. **The owner/operator or the Landowner fail to be in compliance with these Conditions or any modifications thereof during the period in which the lease or contract is in effect;**
    - g. **The owner/operator and Landowner fail to periodically provide proof of adequate insurance for the solar farm operations as more fully described below; and**

- h. Failure to provide proof of continuous operations of the solar farm upon request of the County of Ogle.

This period may be extended by the ~~Supervisor of Assessments and Planning & Zoning Committee~~ of the Ogle County Board if the owner or operator provides evidence that the failure to ~~generate electricity~~ **comply with these Conditions or meet the requirements herein** is due to circumstances **reasonably** beyond the ~~owner's or operator's~~ **owner/operator's and Landowner's reasonable control** and the solar farm ~~has not been abandoned~~.

- 2) Decommissioning shall include:
  - a. The removal all equipment, cables, wires, conduits, structures, fencing, and foundations to a depth of at least 42 inches below grade; **unless such foundations were constructed deeper, in which case removal of the entire foundations;**
  - b. The removal of all graveled areas and access roads unless the ~~owner~~ **Landowner** of the ~~leased real estate~~ **subject property** requests in writing that they are to remain in place;
  - c. Restoration of the ~~land~~ **subject property** to a condition reasonably similar to its condition prior to the solar farm development, including replacement of top soil removed or eroded; **and**
  - d. Re-vegetation of any cleared and/or disturbed areas with warm season grasses and forbs that are native to the region, unless requested in writing by the owner of the real estate to not re-vegetate due to plans for agricultural planting.
- 3) As a condition of issuance of a Zoning Certificate authorizing the construction of the solar farm, Applicant or **owner/operator** shall submit to the Ogle County Planning & Zoning Department an estimate of decommissioning costs prepared by a **disinterested, third party** and qualified engineer ("Third-Party Engineer"). **Such estimate shall state that the estimates apply "best practices" then existing at the time of such estimate, and shall where appropriate, factor in future increases in costs over the life of the solar farm project and its operations.** Ogle County may, at Applicant's **or owner/operator's** expense, hire it's own qualified **engineer or consultant** to verify **and/or approve** the accuracy of Applicant's **or owner/operator's** estimate of decommissioning costs. **The County of Ogle shall have final approval on such decommissioning cost estimates.**
- 4) To ensure the full completion of decommissioning requirements, and/or to facilitate the mitigation and abatement of public nuisances or health hazards caused by debris or hazardous materials occurring in the event of

partial or complete destruction of the solar farm by natural or man-made causes, the ~~solar farm owner and/or operator~~ **owner/operator and Landowner and each** shall obtain and deliver to the County, **along with all appropriate security and perfection documents,** ~~of Ogle ("County") a letter of credit or cash bond,~~ a performance bond; or similar financial assurance; in form and substance **appropriate amount as defined below,** reasonably satisfactory to the County **and its legal department,** securing the solar farm ~~owner and/or operator~~ **owner/operator and Landowner's** obligation to remove the solar farm ("Decommissioning Security").

The Decommissioning Security shall be equal to or greater than the estimated amount **as determined by the aforementioned Third-Party Engineer, as such amount is updated from time to time.** ~~which the cost of decommissioning the solar farm exceeds the salvage value of the solar farm.~~ By its terms, the Decommissioning Security shall **provide that it shall** survive the bankruptcy or dissolution of the ~~owner and/or operator~~ **owner/operator** of the solar **farm or the Landowner,** or other termination of the ~~owner and/or operator~~ **owner/operator's or Landowner's** of the solar ~~farm's~~ existence or its legal obligations. Once it is in place, the ~~owner and/or operator~~ **owner/operator** of the solar farm **and the Landowner** shall maintain the Decommissioning Security, and cause the Decommissioning Security to be valid and enforceable until the secured decommissioning obligations are satisfied. **This obligation shall also be enforceable against and shall run with the land.**

When any of the identified decommissioning triggers **occur or** exist, if the ~~owner and/or operator~~ **owner/operator** of the solar farm ~~has~~ **or Landowner have** not complied with its decommissioning and related obligations, the County shall **promptly** be entitled to make a claim against the Decommissioning Security for its costs to decommission the solar farm; ~~net of any salvage value the County actually realizes.~~

Decommissioning costs shall be **reviewed and re-~~valuated once re-~~evaluated** every five (5) years, **or at such other times as required by the County,** from the date of ~~substantial completion of~~ **initial application for** the solar farm to ensure **compliance herewith and that** sufficient funds **are available** for decommissioning ~~and, if the parties agree at that time by the~~ **owner/operator and Landowner.** **If the County believes** that the decommissioning ~~costs~~ **cost estimates and Decommissioning Security** need to be modified, the amount of the Decommissioning Security shall be adjusted accordingly.

L. Materials Handling, Storage and Disposal

- 1) All solid wastes related to the construction, operation and maintenance of the Solar Farm shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws, **including, but not limited to, all environmental laws then in place.**
- 2) All hazardous materials related to the construction, operation and maintenance of the Solar Farm shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws, **including, but not limited to, all environmental laws then in place.**

M. Points of Contact

The ~~Solar Farm Owner/Operator~~ **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. **Any This information shall be kept current at all times,** and changes shall be reported immediately or as soon as possible.

N. Coordination with Local Fire Protection District(s)

- 1) The Applicant, ~~Owner or Operator~~ **owner/operator and Landowner of the solar farm** shall submit to the local fire protection district(s) a copy of the site plan.
- 2) Upon request by the local fire department, the ~~Owner or Operator~~ **owner/operator** shall cooperate with the local fire department to develop the fire protection district's emergency response plan. The ~~Solar Farm Owner/Operator~~ **owner/operator** shall cooperate with any and all local rescue authorities to provide training (at ~~Owner's and/or Operator's~~ **owner/operator's** expense) to personnel who can assist with a rescue from a ~~Solar Farm~~ **solar farm.**
- 3) Nothing in this section shall alleviate the need to comply with all other applicable fire, life safety and/or emergency response laws and regulations.

O. Miscellaneous Provisions:

- 1) The ~~facility~~ **solar farm owner/operator** shall provide approval for access points and change in access use from the road **or highway** authority having jurisdiction.

- 2) The perimeter of the solar farm shall be secured through the use of security fencing of at least seven (7) feet in height.
- 3) The ~~owner or operator~~ owner/operator of the solar farm shall provide for and maintain reasonable means of access for emergency services.
- 4) The owner/operator and the Landowner ~~of the solar farm~~ shall enter into an Agricultural Impact Mitigation Agreement (AIMA) with the Illinois Department of Agriculture prior to commencement of construction of the solar farm. ~~The AIMA shall be considered a minimum standard for installation, operation and decommissioning of a solar farm, but nothing in these Conditions state that the County cannot impose additional requirements on a case by case basis. The AIMA standard may be modified to greater enforcement from time to time.~~
- 5) 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.
- 6) ~~The owner/operator of the 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.~~
- 7) ~~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.~~
- 8) ~~The Applicant(s), Landowner(s) and owner/operators shall be required to notify the County of any defaults in the underlying lease agreement or contract between themselves in which defaults have not been cured within thirty (30) days of notice of such default.~~
- 9) ~~All lease agreements and contracts between the Landowner and the Applicant or owner/operator shall be recorded with the Ogle County Recorder prior to the Special Use Permit being issued and an unredacted version of the entire lease or contract shall be filed with the County.~~
- 10) ~~The owner/operator shall promptly notify the County if the solar farm becomes non-operational at any point during the time of the Special Use~~

or the solar farm or material part of the solar farm is no longer in active energy producing use. Affidavits may be requested from such owner/operators by the County.

- 11) Landowners, Applicants and owner/operators shall be held jointly and severally responsible for failures to comply with and enforcement of these Conditions including but not necessarily limited to legal fees and expenses and any costs to the County of Ogle.
- 12) These Conditions, as from time to time amended, shall be and are incorporated into any Special Use Permit upon passage by the County Board and issuance for the solar farm and may only be waived by the County Board.
- 13) All Decommissioning Plans provided by Applicant or owner/operator shall be signed and verified by such parties and recorded with the County Recorder and shall run with the land.
- 14) The following definitions shall apply within these Special Use conditions:
  - a) Landowner: The person or entity who owns the fee simple interest in the underlying real property on which a solar farm is located;
  - b) Applicant: The party or parties signing the application for the special use permit on the proposed solar farm project;
  - c) Owner/operator: The person or entity who will own or operate the solar farm installation and its equipment;
  - d) County: The County of Ogle, State of Illinois;
  - e) Solar farm: as defined under the Special Use Permit Ordinance in Ogle County.