

# CASE 086-AT-23

SUPPLEMENTAL MEMORANDUM #1

MAY 3, 2023

**Petitioner:** Zoning Administrator

**Request:** Amend the Champaign County Zoning Ordinance as follows in order to ensure compliance with Public Act 102-1123:

1. Add the following definitions to Section 3.0 Definitions: FACILITY OWNER, NON-PARTICIPATING PROPERTY, OCCUPIED COMMUNITY BUILDING, PARTICIPATING PROPERTY.
2. Revise the following definitions in Section 3.0 Definitions: PARTICIPATING DWELLING, NON-PARTICIPATING DWELLING, COMMUNITY PV SOLAR FARM
3. Revise Section 6.1.4 WIND FARM SPECIAL USE PERMIT to establish an effective date for regulating previously authorized WIND FARMS.
4. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE PERMIT to establish regulations applicable after an effective date for proposed WIND FARMS, including but not limited to:
  - a. Establish a separation from each WIND FARM TOWER of 1.1 times the maximum blade tip height to the nearest PARTICIPATING DWELLING, to the center point of a public street right-of-way, to the nearest non-participating property line, and to third-party transmission lines.
  - b. Establish a separation from each WIND FARM TOWER of 2.1 times the maximum blade tip height to the nearest NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING, and to the nearest point on the property line of fish and wildlife areas and Illinois Nature Preserve Commission protected lands.
  - c. Establish that the total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) must receive a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.
  - d. Establish that the financial assurance for WIND FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement but will be required to be an Escrow Account.
  - e. Add other new standard conditions consistent with Public Act 102-1123.
5. Renumber existing Section 6.1.5 to new Section 6.1.6 PHOTOVOLTAIC (PV) SOLAR FARM and establish an effective date for regulating previously authorized PHOTOVOLTAIC (PV) SOLAR FARMS.
6. Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR FARM to establish regulations applicable after an effective date for

proposed PHOTOVOLTAIC (PV) SOLAR FARMS, including but not limited to:

- a. Establish a separation of 50 feet between the PV SOLAR FARM fencing and the street centerline.
- b. Establish a separation of 50 feet between the nearest edge of any component of the PV SOLAR FARM and the nearest point on the property line of the non-participating property.
- c. Establish a separation of 150 feet from the nearest edge of any component of the PV SOLAR FARM and the nearest point on the outside wall of an OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING.
- d. Establish that the financial assurance for PV SOLAR FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement.
- e. Add other new standard conditions consistent with Public Act 102-1123.

**Location:** Unincorporated Champaign County

**Time Schedule for Development:** As soon as possible

**Prepared by:** Susan Burgstrom, Senior Planner  
John Hall, Zoning Administrator

---

## STATUS

The proposed amendment in Attachment B to this memo is a strict interpretation of what changes would be made to the Zoning Ordinance based on Public Act 102-1123.

The Zoning Administrator attended an Illinois Association of County Board Members seminar on Public Act 102-1123 on March 27, 2023. Attorneys presented information that suggested a less strict interpretation could be made for topics not specifically regulated in PA 102-1123. For example, PA 102-1123 makes no mention of a required minimum distance from airports, so if a County desired to include a minimum distance between a wind or solar farm and the nearest airport, then it could do so.

On May 1, 2023, the Zoning Administrator received input from the State's Attorney's Office. Attorney Andrew Muller with the State's Attorney's Office cautions that adding back requirements that are not specifically contemplated in HB 4412 (now PA 102-1123) creates a risk of litigation to Champaign County because these requirements are clearly more restrictive than HB 4412.

P&Z Staff created an alternative proposed amendment dated May 3, 2023 (Attachment C to this memo) that adds back in items from the Zoning Ordinance that had been removed for the March 30, 2023 version of the amendment that was based on the strict interpretation of Public Act 102-1123. The added back items are not specifically regulated by Public Act 102-1123. The items added back in present a risk of litigation to the county but there is also the possibility that they might not be contested in a court of law. Staff believes that in this situation, the benefits of keeping these additional zoning requirements outweigh the risks of litigation.

## **NEXT STEPS**

P&Z Staff would appreciate any comments and recommendations by the ZBA. ZBA members will not be held liable for expressing their opinions on the options presented should the eventual final amendment be contested in the courts. The Board should recommend whichever version of the amendment is best for the County.

## **ATTACHMENTS**

- A Legal advertisement
- B Proposed amendment dated May 3, 2023 – Strict interpretation
- C Proposed amendment dated May 3, 2023 – Less strict interpretation
- D Sample Wind Ordinance by the Illinois Association of County Board Members  
*(on ZBA meetings website)*
- E Sample Solar Ordinance by the Illinois Association of County Board Members  
*(on ZBA meetings website)*
- F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 086-AT-23 dated May 11, 2023

**LEGAL PUBLICATION: WEDNESDAY, MARCH 15, 2023**

**CASE: 086-AT-23**

**NOTICE OF PUBLIC HEARING IN REGARD TO AN AMENDMENT TO THE TEXT OF THE CHAMPAIGN COUNTY ZONING ORDINANCE**

CASE 086-AT-23

The Champaign County Zoning Administrator, 1776 East Washington Street, Urbana, has filed a petition to amend the text of the Champaign County Zoning Ordinance. The petition is on file in the office of the Champaign County Department of Planning and Zoning, 1776 East Washington Street, Urbana, IL.

A public hearing will be held **Thursday, March 30, 2023 at 6:30 p.m.** prevailing time in the Shields-Carter Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, IL, at which time and place the Champaign County Zoning Board of Appeals will consider a petition for the following:

Amend the Champaign County Zoning Ordinance as follows in order to ensure compliance with Public Act 102-1123:

1. Add the following definitions to Section 3.0 Definitions: FACILITY OWNER, NON-PARTICIPATING PROPERTY, OCCUPIED COMMUNITY BUILDING, PARTICIPATING PROPERTY.
2. Revise the following definitions in Section 3.0 Definitions: PARTICIPATING DWELLING, NON-PARTICIPATING DWELLING, COMMUNITY PV SOLAR FARM
3. Revise Section 6.1.4 WIND FARM SPECIAL USE PERMIT to establish an effective date for regulating previously authorized WIND FARMS.
4. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE PERMIT to establish regulations applicable after an effective date for proposed WIND FARMS, including but not limited to:
  - a. Establish a separation from each WIND FARM TOWER of 1.1 times the maximum blade tip height to the nearest PARTICIPATING DWELLING, to the center point of a public street right-of-way, to the nearest non-participating property line, and to third-party transmission lines.
  - b. Establish a separation from each WIND FARM TOWER of 2.1 times the maximum blade tip height to the nearest NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING, and to the nearest point on the property line of fish and wildlife areas and Illinois Nature Preserve Commission protected lands.
  - c. Establish that the total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) must receive a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.
  - d. Establish that the financial assurance for WIND FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement but will be required to be an Escrow Account.
  - e. Add other new standard conditions consistent with Public Act 102-1123.

5. Renumber existing Section 6.1.5 to new Section 6.1.6 PHOTOVOLTAIC (PV) SOLAR FARM and establish an effective date for regulating previously authorized PHOTOVOLTAIC (PV) SOLAR FARMS.
6. Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR FARM to establish regulations applicable after an effective date for proposed PHOTOVOLTAIC (PV) SOLAR FARMS, including but not limited to:
  - a. Establish a separation of 50 feet between the PV SOLAR FARM fencing and the street centerline.
  - b. Establish a separation of 50 feet between the nearest edge of any component of the PV SOLAR FARM and the nearest point on the property line of the non-participating property.
  - c. Establish a separation of 150 feet from the nearest edge of any component of the PV SOLAR FARM and the nearest point on the outside wall of an OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING.
  - d. Establish that the financial assurance for PV SOLAR FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement.
  - e. Add other new standard conditions consistent with Public Act 102-1123.

All persons interested are invited to attend said hearing and be heard. If you would like to submit comments or questions before the meeting, please call the P&Z Department at 217-384-3708 or email [zoningdept@co.champaign.il.us](mailto:zoningdept@co.champaign.il.us) no later than 4:30 pm the day of the meeting. The hearing may be continued and reconvened at a later time.

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

**TO BE PUBLISHED: WEDNESDAY, MARCH 15, 2023, ONLY**

Send bill and one copy to: Champaign County Planning and Zoning Dept.  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802  
Phone: 384-3708

Our News Gazette account number is 99225860.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

**New since 3/9/23 ELUC meeting**

**New since 3/30/23 ZBA meeting**

**1. Add definitions in Section 3. Definitions:**

FACILITY OWNER: (i) a person with a direct ownership interest in a WIND FARM or a PV SOLAR FARM, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

NON-PARTICIPATING PROPERTY: real property that is not a PARTICIPATING PROPERTY.

OCCUPIED COMMUNITY BUILDING: any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

PARTICIPATING PROPERTY: real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities.

**2. Revise definitions in Section 3. Definitions:**

~~DWELLING-or-PRINCIPAL BUILDING, PARTICIPATING~~: A DWELLING on land that is leased to a WIND FARM ~~or PV SOLAR FARM~~.

~~DWELLING-or-PRINCIPAL BUILDING, NON-PARTICIPATING~~: A DWELLING on land that is not leased to a WIND FARM ~~or PV SOLAR FARM~~.

PV SOLAR FARM, COMMUNITY: A PV SOLAR FARM of not more than ~~2,000~~5,000 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 ~~totaling 5 MW. 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.~~

**3. Revise Section 6.1.1 A.5.a. and b. as follows:**

5. No Zoning Use permit for such SPECIAL USE will be issued until the applicant provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

financial institution within 200 miles of Urbana, Illinois, or reasonable anticipated travel costs shall be added to the amount of the letter of credit.

- a. Unless specified elsewhere in this Ordinance, the irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer’s cost estimate to complete the work described in Section 6.1.1A.4.a., Section 6.1.1A.4.b., and Section 6.1.1A.4.c. **This requirement shall not apply to any WIND FARM or SOLAR FARM approved after {effective date}.**
- b. The provisions of this subparagraph notwithstanding, a different amount may be required as a special condition. **This requirement shall not apply to any WIND FARM or SOLAR FARM approved after {effective date}.**

**4. Add new Section 6.1.1 A.7.f. as follows:**

- f. **For any WIND FARM or SOLAR FARM approved after {effective date}, abandonment shall be limited to only when the decommissioning and site reclamation plan has not been completed with 12 months after a SOLAR FARM reaches the end of its useful life or when the decommissioning and site reclamation plan has not been completed within 18 months after a WIND FARM reaches the end of its useful life. A WIND FARM or SOLAR FARM shall be presumed to have reached the end of its useful life if the owner of the WIND FARM or SOLAR FARM fails for a period of six consecutive months to pay the landowner amounts owed in accordance with the underlying agreement and additionally, a WIND FARM shall be presumed to have reached the end of its useful life if no electricity shall have been generated for a continuous period of 12 months.**

**5. Add new Section 6.1.1 A.9.h. as follows:**

- h. **For any WIND FARM or SOLAR FARM approved after {effective date}, the Zoning Administrator may only draw on the funds only when the decommissioning and site reclamation plan has not been completed with 12 months after a SOLAR FARM reaches the end of its useful life or when the decommissioning and site reclamation plan has not been completed with 18 months after a WIND FARM reaches the end of its useful life. A WIND FARM or SOLAR FARM shall be presumed to have reached the end of its useful life if the if the owner of the WIND FARM or SOLAR FARM fails for a period of six consecutive months to pay the landowner amounts owed in accordance with the underlying agreement and additionally, a WIND FARM shall be presumed to have reached the end of its useful life if no electricity shall have been generated for a continuous period of 12 months.**

**6. Revise Section 6.1.1 A.11.b. as follows:**

- 11. The proceeds of the letter of credit may only be used by the COUNTY to:
  - a. remove the NON-ADAPTABLE STRUCTURE and return the site to its condition prior to placement of the NON-ADAPTABLE STRUCTURE, in accordance with

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

the most recent decommissioning and site reclamation plan submitted and accepted in relation to the NON-ADAPTABLE STRUCTURE;

- b. for other than any WIND FARM or SOLAR FARM approved after {effective date}, 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 Champaign County purchasing policies; and
- c. remove any covenants placed on the title in conjunction with Section 6.1.1A.2.

The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.

**7. Revise the statement at the beginning of Section 6.1.4 as follows:**

Prior to <effective date>, a WIND FARM County BOARD SPECIAL USE Permit may only be authorized in the AG-1, Agriculture Zoning DISTRICT subject to the following conditions:

**8. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE PERMIT as follows:**

As of <effective date>, a WIND FARM SPECIAL USE Permit may only be authorized in the AG-1, AG-2, I-1, and I-2 Zoning DISTRICTS subject to the following conditions:

- A. General Standard Conditions
  - 1. The WIND FARM County Board SPECIAL USE Permit shall not be located less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance.
  - 2. 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 paragraph 6.1.5 M.
- B. Minimum Lot Standards
  - 1. There are no minimum LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, or maximum LOT COVERAGE requirements for a WIND FARM or for LOTS for WIND FARM TOWERS, substations, and WIND FARM maintenance and management facilities.
- C. Minimum Standard Conditions for Separations for WIND FARM TOWERS from adjacent USES and STRUCTURES.



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

The location of each WIND FARM TOWER shall provide the following required separations:

1. At least 1.1 times the maximum blade tip height of the wind tower from the center of the base of a WIND FARM TOWER to the nearest point on the outside wall of any PARTICIPATING DWELLING provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
2. At least 2.1 times the maximum blade tip height of the wind tower from the center of the base of a WIND FARM TOWER to the nearest point on the outside wall of any existing NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
3. The above separations may be reduced to a distance no less than 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) upon submission of a PRIVATE WAIVER signed by the owner of said NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING or adjacent property. The PRIVATE WAIVER must specify the agreed minimum separation and specifically acknowledge that the grantor accepts the resulting noise level caused by the WIND FARM.
4. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of the base of a WIND FARM TOWER to the center point of the public STREET RIGHT OF WAY. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
5. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of the base of a WIND FARM TOWER to the nearest non-participating property line. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said non-participating property. The PRIVATE WAIVER must specify the agreed minimum separation. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
6. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

the base of a WIND FARM TOWER to the nearest easement for a third-party electrical transmission lines. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said electrical transmission line. The PRIVATE WAIVER must specify the agreed minimum separation. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.

7. Any PRIVATE WAIVER establishing an agreement for a lesser minimum separation as authorized above shall be submitted prior to the final determination by the Board and must be recorded as part of the chain of title in the deed to any relevant tract of land prior to authorization of any relevant ZONING USE PERMIT. No waiver of a standard condition shall be required in the event of a duly agreed and signed PRIVATE WAIVER.
  8. At least 2.1 times the maximum blade tip height of the WIND TOWER to the nearest point on the property line of fish and wildlife areas and Illinois Nature Preserve Commission protected lands. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
- D. Standard Conditions for Design and Installation of WIND FARM TOWERS.
1. The total WIND FARM TOWER height (measured to the tip of the highest rotor blade) must receive a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.
  2. The WIND FARM shall comply with all applicable Federal Aviation Administration (FAA) requirements which shall be explained in the application. The minimum lighting requirement of the FAA shall not be exceeded.
- E. Standard Conditions to Mitigate Damage to Farmland
1. All underground wiring or cabling for the WIND FARM shall be at a minimum depth as established by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M.
  2. Protection of agricultural drainage tile
    - a. Protection of agricultural drainage tile shall comply with the Agriculture Impact Mitigation Agreement with the Illinois Department of Agriculture as required by Section 6.1.5 M.
  3. All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by WIND FARM construction and/or decommissioning shall be restored by the applicant to the pre-WIND FARM construction condition in a manner consistent with the Agricultural Impact Mitigation

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M.

4. Topsoil replacement
  - a. All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M.
5. Mitigation of soil compaction and rutting
  - a. All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M.
6. Land leveling
  - a. The applicant shall not be responsible for leveling of disturbed land if exempted by the WIND FARM lease.
  - b. All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M.

**F. Standard Conditions for Use of Public STREETS**

Any WIND FARM applicant proposing to use any County Highway or township or municipal STREET for the purpose of transporting WIND FARM TOWERS or Substation parts and/or equipment for construction, operation, or maintenance of the WIND FARM TOWERS or Substation(s), shall identify all such public STREETS and pay the costs of any necessary permits and costs to repair any damage to the STREETS specifically and uniquely attributable to the WIND FARM construction, as follows:

1. The Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer; or Township Highway Commissioner; or municipality where relevant. Agreements with the County Engineer shall not be forwarded to the County Board before the WIND FARM SPECIAL USE permit is forwarded. All other agreements shall be executed prior to the close of the public hearing before the BOARD. The signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:
  - a. The applicant shall agree to conduct a pre-WIND FARM construction baseline survey to determine existing STREET conditions for assessing potential future damage including the following:

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- (1) A videotape of the affected length of each subject STREET supplemented by photographs if necessary.
  - (2) Pay for costs of the County to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction.
  - (3) Pay for any strengthening of STREET structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.
- b. The applicant shall agree to pay for costs of the County Engineer to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction and pay for any strengthening of structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.
  - c. The applicant shall agree upon an estimate of costs for any other necessary roadway improvements prior to construction.
  - d. The applicant shall obtain any necessary approvals for the STREET improvements from the relevant STREET maintenance authority.
  - e. The applicant shall obtain any necessary Access Permits including any required plans.
  - f. The applicant shall erect permanent markers indicating the presence of underground cables.
  - g. The applicant shall install marker tape in any cable trench.
  - h. The applicant shall become a member of the Illinois statewide One-Call Notice System (otherwise known as the Joint Utility Locating Information for Excavators or “JULIE”) and provide JULIE with all of the information necessary to update its record with respect to the WIND FARM.
  - i. The applicant shall use directional boring equipment to make all crossings of County Highways for the cable collection systems.
  - j. The applicant shall provide plans for the widening of any corner radius that is necessary to facilitate the turning movements of the transport trucks used by the applicant.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- k. The applicant shall pay for the necessary temporary STREET improvements for the widened corner radii and pay for the cost to return the widened radii to their original lines and grades when no longer needed for the WIND FARM construction unless the STREET maintenance authority requests that the widened radii remain as improved.
- l. The applicant shall notify the STREET maintenance authority in advance of all oversize moves and crane crossings.
- m. The applicant shall provide the County Engineer with a copy of each overweight and oversize permit issued by the Illinois Department of Transportation for WIND FARM construction.
- n. The applicant shall transport the WIND FARM TOWER segments and other oversize loads so as to minimize adverse impact on the local traffic including farm traffic.
- o. The applicant shall schedule WIND FARM construction traffic in a way to minimize adverse impacts on emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic.
- p. The applicant shall provide as much advance notice as is commercially reasonable to obtain approval of the STREET maintenance authority when it is necessary for a STREET to be closed due to a crane crossing or for any other reason. Notwithstanding the generality of the aforementioned, the applicant will provide 48 hours notice to the extent reasonably practicable.
- q. The applicant shall provide signs indicating all highway and STREET closures and work zones in accordance with the Illinois Department of Transportation Manual on Uniform Traffic Control Devices.
- r. The applicant shall establish a single escrow account and a single Irrevocable Letter of Credit for the cost of all STREET upgrades and repairs pursuant to the WIND FARM construction.
- s. The applicant shall notify all relevant parties of any temporary STREET closures.
- t. The applicant shall obtain easements and other land rights needed to fulfill the applicant's obligations under this agreement.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- u. The applicant shall provide written Notice to Proceed to the relevant STREET maintenance authority by December 31 of each year that identifies the STREETS to be upgraded during the following year.
  - v. The applicant shall provide dust control and grading work to the reasonable satisfaction of the County Engineer on STREETS that become aggregate surface STREETS.
  - w. The applicant shall conduct a post-WIND FARM construction baseline survey similar to the pre-WIND FARM construction baseline survey to identify the extent of repairs necessary to return the STREET to the pre-WIND FARM construction condition.
  - x. The applicant shall pay for the cost of all repairs to all STREETS that are damaged by the applicant during the construction of the WIND FARM and restore such STREETS to the condition they were in at the time of the pre-WIND FARM construction inventory.
  - y. All WIND FARM construction traffic shall exclusively use routes designated in the approved Transportation Impact Analysis.
  - z. The applicant shall provide liability insurance in an acceptable amount to cover the required STREET construction activities.
  - aa. The applicant shall pay for the present worth costs of life consumed by the construction traffic as determined by the pavement management surveys and reports on the roads which do not show significant enough deterioration to warrant immediate restoration.
  - bb. Provisions for expiration date on the agreement.
  - cc. Other conditions that may be required.
2. A condition of the County Board SPECIAL USE Permit approval shall be that the Zoning Administrator shall not authorize a Zoning Use Permit for the WIND FARM until the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, has approved a Transportation Impact Analysis provided by the applicant and prepared by an independent engineer that is mutually acceptable to the applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, that includes the following:
- a. Identify all such public STREETS or portions thereof that are intended to be used by the applicant during construction of the

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

WIND FARM as well as the number of loads, per axle weight of each load; and type of equipment that will be used to transport each load.

- b. A schedule of the access road culverts and bridges affected by the project and the recommendations as to actions, if any, required with respect to such culverts and bridges and estimates of the cost to replace such culverts and bridges.
  - c. A schedule of the anticipated STREET repair costs to be made in advance of the WIND FARM construction and following construction of the WIND FARM.
  - d. The applicant shall reimburse the County Engineer; or Township Highway Commissioner; or municipality where relevant, for all reasonable engineering fees including the costs of a third party consultant, incurred in connection with the review and approval of the Transportation Impact Analysis.
3. At such time as decommissioning takes place the Applicant or its successors in interest shall enter into a Roadway Use and Repair Agreement with the appropriate highway authority.
- G. Standard Conditions for Allowable Noise Level
- 1. Noise levels from each WIND FARM TOWER or WIND 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). This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

**Items G.2 through G.5 below might go beyond the constraints established by Public Act 102-1123. The Act allows that a project can be required to be compliant with IPCB regulations, but it does not specify that a noise study can be required. Staff is working to verify whether these statements can be included.**

- 2. The applicant shall submit manufacturer’s wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics 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.
- 4. The applicant shall submit a map of the relevant noise contours for the proposed WIND FARM and indicate the proposed WIND FARM TOWERS and all existing PRINCIPAL BUILDINGS within at least 1,500

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

feet of any WIND FARM TOWER or within the coverage of the relevant noise contours.

5. If a computer model is used to generate the required noise contours the applicant shall clearly state the assumptions of the model’s construction and algorithms so that a competent and objective third party can as simply as possible verify the noise contours and noise data.
  6. After construction of the WIND 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 may seek authorization from the County Board to hire a noise consultant to determine the noise produced by the WIND FARM in a manner consistent with the Illinois Pollution Control Board (IPCB) regulations (*35 Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
    - b. The Zoning Administrator may require the WIND FARM owner to cooperate fully with the noise consultant in the enforcement action including shutting down all wind turbines to allow documentation of ambient noise levels.
    - c. In the event that a violation of the IPCB noise regulations is identified the Zoning Administrator may require the WIND FARM owner to take whatever actions are necessary to stop the violation and comply with the noise regulations. The Zoning Administrator may seek direction from the Environment and Land Use Committee regarding the actions necessary to stop the violation.
    - d. Further, in the event that a violation of IPCB noise regulations is identified the WIND FARM owner shall reimburse to the County the cost of the noise consultant.
- H. 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 or, if applicable, a copy of the Detailed Action 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.
- I. Standard Conditions for Historic and Archaeological Resources Review



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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.

J. Standard Conditions for Fish and Wildlife Impacts

The applicant shall apply for consultation with the United States Fish and Wildlife Service’s Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the “U.S. Fish and Wildlife Service’s Land-Based Wind Energy Guidelines.” The application shall include a copy of the consultation review from the U.S. Fish and Wildlife Service.

K. Standard Conditions for Shadow Flicker

1. The applicant shall submit the results of a study on potential shadow flicker. The shadow flicker study shall identify the locations of both summer and winter shadow flicker that may be caused by the project. ~~with an expected duration of 30 hours or more per year.~~
2. ~~Shadow flicker that exceeds the above standards shall be mitigated by any means such as landscaping, awnings, or fencing. No OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING shall experience more than 30 hours per year of shadow flicker under planned operating conditions. This duration is a statutory requirement by 55 ILCS 5/5-12020 and shall not be decreased.~~

**Item L below (formerly Section 6.1.4 P Decommissioning and Site Reclamation Plan) might go beyond the constraints established by Public Act 102-1123. Staff is working to verify whether these statements can be included. In addition, staff is working on verifying whether related Section 6.1.1. can be included.**

L. Standard Condition for Decommissioning Plan and Site Reclamation Plan

1. The applicant shall submit a signed site reclamation plan conforming to the requirements of paragraph 6.1.1 A. **and matching the overall deconstruction and land restoration requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.** ~~The decommissioning and deconstruction requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture are a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.~~
2. In addition to the purposes listed in subparagraph 6.1.1 A.4. the reclamation agreement shall also include provisions for anticipated repairs for any public STREET used for the purpose of reclamation of the WIND FARM and all costs related to removal of access driveways.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

3. The Site Reclamation Plan required in paragraph 6.1.1 A. shall also include the following:
  - a. A stipulation that the applicant shall notify the GOVERNING BODY by certified mail of the commencement of a 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 at law, or such other transfer of applicant's financial interest in the WIND FARM shall in no way affect or change applicant's obligation to continue to comply with the terms of this agreement. Any successor or assignee shall assume the terms, covenants and obligations of this Agreement and agrees to assume all reclamation liability and responsibility for the WIND FARM.
  - c. Authorization for the GOVERNING BODY and its authorized representatives for right of entry onto the WIND FARM premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.
  - d. A stipulation that at such time as decommissioning takes place, the Applicant or its successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
  - e. A stipulation that the Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.
  - f. A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND 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.
  - g. The site reclamation plan shall provide for payment of any associated costs that Champaign 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 request for proposals and bidding

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

documents required to comply with State law or Champaign County purchasing policies.

- h. The depth of removal of foundation concrete below ground shall be a minimum of 54 inches as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. 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.
- i. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows: as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

~~(1) — 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 WIND 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.~~

~~(2) — The native soils excavated at the time of the original WIND 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 WIND FARM. The methods for storing the excavated native soils during the operating lifetime of the WIND FARM shall be included in the site reclamation plan.~~

~~(3) — 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 paragraph. The certification shall be submitted to the Zoning Administrator.~~

~~(4) — An Illinois Licensed Professional Engineer 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~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

~~expected to be no less than 54 inches within one year after backfilling.~~

- j. A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WIND FARM SPECIAL USE Permit shall be deemed void.
  - k. A stipulation that the Applicant’s obligation to complete the 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 site reclamation plan or any breach of the 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 WIND 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 paragraph 6.1.1A.5., the Applicant shall provide financial assurance in the form of ~~an irrevocable letter of credit and~~ an escrow account as follows:
- a. ~~At the time of SPECIAL USE Permit approval the amount of financial assurance to be provided for the site reclamation plan shall be 210% of the decommissioning costs as determined in the independent engineer’s cost estimate to complete the decommissioning work described in Section 6.1.1 A.4.a. and 6.1.1A.4.b and 6.1.1A.4.e. No Zoning Use Permit to authorize construction of the WIND FARM shall be authorized by the Zoning Administrator until the WIND FARM owner shall provide the COUNTY with financial assurance to cover 12.5% 10% of the decommissioning and site reclamation cost as determined in the independent engineer’s cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

b. On or before the sixth anniversary of the Commercial Operation Date, the WIND FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~62.5%~~ 50% of the decommissioning cost and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

c. On or before the eleventh anniversary of the Commercial Operation Date, the WIND FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~125%~~ 100% of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5. and as determined in the updated decommissioning and site reclamation plan filed with the County on or before the end of the tenth year of commercial operation.

bd. Net salvage value may be deducted from decommissioning costs as follows:

- (1) One of the following standards shall be met:
  - i. The Applicant shall maintain the WIND FARM TOWERS free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or
  - ii. The Applicant shall deduct from the salvage value credit the amount of any lien or encumbrance on each WIND FARM TOWER; or
  - iii. Any and all financing and/or financial security agreements entered into by the Applicant shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1A.2 that the reclamation work be done.
- (2) The applicant shall provide proof of compliance with paragraph 6.1.5 L.4(b)(1) prior to issuance of any Zoning Use Permit and upon every renewal of the financial

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

assurance and at any other time upon the request of the Zoning Administrator.

- (3) The Applicant shall provide in the site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
- (4) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the tower, the hub assembly, the bed plate, the nacelle, the turbine, the blades, the tower cabling and internal wiring, the transformers, the foundation, the access roads.
- (5) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgment as to anticipated changes in salvage prices prior to the next update of estimated net salvage value.

~~(6) The deduction from the estimated decommissioning costs for net estimated salvage value shall be capped at 70% of the total net estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.~~

~~(7) The credit for net estimated salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above ground portion of that WIND FARM TOWER on the subject site.~~

~~ee.~~ The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.

~~ef.~~ The Applicant ~~and its successors in interest~~ shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:

- ~~(1) At least once every three years for the first 12 years of the financial assurance and at least once every year thereafter the Applicant shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

~~decommissioning costs and salvage value, by including any changes due to inflation and/or change in salvage price. The Applicant shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator. The Applicant or its successors in interest shall file an updated decommissioning and site reclamation plan with the County on or before the end of the tenth year of commercial operation.~~

- (2) ~~The County shall reevaluate the estimated costs of decommissioning and site reclamation every five years after the tenth anniversary of the commercial operation date. The solar farm owner shall provide an updated estimated cost of decommissioning and site reclamation that is provided by an independent Illinois licensed professional engineer.~~
- (3) ~~At all times after the tenth anniversary of the commercial operation date, the total combined value of the irrevocable letter of credit and the escrow account shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; and an amount for any future years left in the anticipated 25 year life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.~~

~~eg. The applicant or WIND FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account over the first 13 years of the WIND FARM operation provide an escrow account as follows:~~

- (1) The applicant or WIND FARM owner and the GOVERNING BODY shall agree on a mutually acceptable financial institution at which an escrow account shall be established.
- (2) The GOVERNING BODY shall be the beneficiary of the escrow account for the purpose of the reclamation of the WIND FARM in the event that the WIND FARM owner is incapable of decommissioning the WIND FARM.
- (3) The applicant or WIND FARM owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record, pursuant to the Secured Transit Article of the Uniform Commercial Code, 810 *ILCS* 9/101 *et seq.*

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

~~(4) — The applicant or WIND FARM owner shall make annual deposits to the escrow account over a 12 year period and shall simultaneously provide a replacement irrevocable letter of credit that is reduced accordingly.~~

~~(5) — At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the life span of the WIND FARM and the amount shall be equal to or exceed the following:~~

~~i. — the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; plus~~

~~ii. — an amount for any future years left in the anticipated life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.~~

(6) Any interest accrued on the escrow account that is over and above the total value required by subparagraph 6.1.5 L.4 shall go to the WIND FARM owner.

(7) In order to provide funding for decommissioning at the time of decommissioning, the WIND FARM applicant or WIND FARM owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the GOVERNING BODY agreeing to a release of the full amount of the escrow account.

fh. Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.5 L.4. (f), the amount to be placed in the escrow account pursuant to this paragraph 6.1.5 L.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

gi. Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 M. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.

~~5. — In addition to the conditions listed in subparagraph 6.1.1A.9. the Zoning Administrator may also draw on the funds for the following reasons:~~

~~a. — In the event that any WIND FARM TOWER or component thereof ceases to be functional for more than six consecutive months after~~



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

~~it starts producing electricity and the Owner is not diligently repairing such WIND FARM TOWER or component.~~

~~b. In the event that the Owner declares any wind turbine or other component to be functionally obsolete for tax purposes.~~

~~e. There is a delay in the construction of any WIND FARM TOWER of more than 6 months after construction on that WIND FARM TOWER begins.~~

~~d. Any WIND FARM TURBINE 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 WIND FARM TURBINE is otherwise derelict for a period of 6 months.~~

~~f. The WIND FARM is in violation of the terms of the WIND FARM SPECIAL USE permit for a period exceeding ninety (90) days.~~

~~g. The Applicant 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 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 paragraph 6.1.4D.1.(a) or failed to submit it to the COUNTY within 12 consecutive months of receiving a Zoning Use Permit regardless of the efforts of the Applicant to obtain such certification.~~

**65.** The Zoning Administrator may, but is not required to, deem the WIND FARM abandoned, ~~or the standards set forth in Section 6.1.5 L.5. met,~~ with respect to some, but not all, of the WIND FARM TURBINES in the WIND FARM. In that event the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to those WIND FARM TURBINES only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining WIND FARM TURBINES in the WIND FARM.

**76.** The Site Reclamation Plan shall be included as a condition of approval by the BOARD and the signed and executed irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

M. Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture

1. The Applicant shall enter into an Agricultural Impact Mitigation Agreement 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 Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
3. All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
4. Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

N. Application Requirements

1. In addition to all other information required on the SPECIAL USE Permit application and required by Section 9.1.1 A.2. the application shall contain or be accompanied by the following information:
  - a. A WIND FARM Project Summary, including, to the extent available:
    - (1) A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of wind turbines, number of wind turbines, and name plate generating capacity of each wind turbine; the maximum height of the WIND FARM TOWER(S); and the maximum diameter of the WIND FARM TOWER rotor(s).
    - (2) The specific proposed location of the WIND FARM including all tax parcels on which the WIND FARM will be constructed.
    - (3) The specific proposed location of all tax parcels required to be included in the WIND FARM County Board SPECIAL USE Permit.
    - (4) A description of the applicant; Owner and Operator, including their respective business structures.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- b. The name(s), address(es), and phone number(s) of the applicant(s), Owner and Operator, and all property owner(s) for the WIND FARM County Board SPECIAL USE Permit.
  - c. A site plan for the installation of all WIND FARM TOWERS indicating the following:
    - (1) The approximate planned location of each WIND FARM TOWER, other PRINCIPAL STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substation(s), ancillary equipment, third party transmission lines, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.
    - (2) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR COMMUNITY BUILDINGS or uses shall be shown or dimensioned on the approved site plan for the SPECIAL USE Permit unless the Board authorizes a lesser separation in a special condition of approval or any required and duly authorized waivers of paragraph 6.1.5 C. Authorization of a separation of less than 90% of that indicated on the approved site plan for the SPECIAL USE Permit shall require an updated noise study meeting the requirements of paragraph 6.1.5 G. to be submitted with the Zoning Use Permit application. WIND FARM structures include WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.
  - d. The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Special Use Permit Application to authorize construction.
  - e. All other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
2. The applicant shall notify the COUNTY of any changes to the information provided above that occurs while the SPECIAL USE Permit application is pending.
- O. The approval of a WIND FARM shall not be conditioned on a property value guarantee and shall not require a facility owner to pay into a neighboring property

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

devaluation escrow account. This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

P. Deadlines for Start of Public Hearing and Governing Body Determination

1. A public hearing for a WIND FARM shall begin within 45 days of filing a complete SPECIAL USE Permit application. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

2. A decision on the SPECIAL USE Permit shall be made within 30 days after the conclusion of the public hearing. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

9. Renumber all references to Section **6.1.5 PHOTOVOLTAIC (PV) SOLAR FARM County BOARD SPECIAL USE Permit** to new **Section 6.1.6** and add the following statement to the beginning of new Section 6.1.6:

Prior to <effective date>, a PHOTOVOLTAIC (PV) SOLAR FARM County BOARD SPECIAL USE Permit may only be authorized in the AG-1, Agriculture, Zoning DISTRICT or the AG-2, Agriculture, Zoning DISTRICT subject to the following standard conditions:

10. Add new **Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR FARM SPECIAL USE Permit as follows:**

As of <effective date>, a PHOTOVOLTAIC (PV) SOLAR FARM SPECIAL USE Permit may only be authorized in the AG-1, AG-2, I-1, and I-2 Zoning DISTRICTS subject to the following conditions:

- A. In what follows, PV SOLAR FARM should be understood to include COMMUNITY PV SOLAR FARM unless specified otherwise in the relevant section or paragraph.
- B. 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 for PV SOLAR FARM maintenance and management facilities.
  - (2) There is no maximum LOT AREA requirement on BEST PRIME FARMLAND.
- C. Minimum Standard Conditions for Separations for PV SOLAR FARM from adjacent USES and STRUCTURES

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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 centerline a minimum of 50 feet. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
- (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. A separation of 50 feet between the nearest edge of any component of the PV SOLAR FARM and the nearest point on the property line of the non-participating property. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
  - b. A separation of 150 feet from the nearest edge of any component of the PV SOLAR FARM and the nearest point on the outside wall of an OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
  - 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.

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

- (1) Electrical Components
  - a. 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.
- (2) Maximum Height. The height limitation established in Section 5.3 shall not apply to a PV SOLAR FARM. The maximum height of all above ground STRUCTURES shall be identified in the application and as approved in the SPECIAL USE Permit. No component of a solar panel shall have a height of more than 20 feet above ground when the solar

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

arrays are at full tilt. This height limit is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.

E. Standard Conditions to Mitigate Damage to Farmland

(1) All underground wiring or cabling for the PV SOLAR FARM shall be at a minimum depth as established by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N.

(2) Protection of agricultural drainage tile

Protection of agricultural drainage tile shall comply with the Agriculture Impact Mitigation Agreement with the Illinois Department of Agriculture as required by Section 6.1.7 N.

(3) All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by PV SOLAR FARM construction and/or decommissioning shall be restored by the applicant to the pre-PV SOLAR FARM construction condition in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N.

(4) Topsoil replacement

All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N.

(5) Mitigation of soil compacting and rutting

a. The Applicant shall not be responsible for mitigation of soil compaction and rutting if exempted by the PV SOLAR FARM lease.

b. All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N.

(6) Land leveling

a. The Applicant shall not be responsible for leveling of disturbed land if exempted by the PV SOLAR FARM lease.

b. All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- (7) Minimize disturbance to BEST PRIME FARMLAND
  - a. Any PV SOLAR FARM to be located on BEST PRIME FARMLAND shall minimize the disturbance to BEST PRIME FARMLAND as follows:
    - (a) The disturbance to BEST 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 BEST 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 Section 6.1.7 L.1.

F. Standard Conditions for Use of Public Streets

Any PV SOLAR FARM Applicant proposing to use any County Highway or a township or municipal STREET for the purpose of transporting PV SOLAR FARM or Substation parts and/or equipment for construction, operation, or maintenance of the PV SOLAR FARM or Substation(s), shall identify all such public STREETS and pay the costs of any necessary permits and the costs to repair any damage to the STREETS specifically and uniquely attributable to the PV SOLAR FARM construction, as follows:

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- (1) Prior to the close of the public hearing before the BOARD, the Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, except for any COMMUNITY PV SOLAR FARM for which the relevant highway authority has agreed in writing to waive the requirements of subparagraphs 6.1.7 F.1, 6.1.7 F.2, and 6.1.7 F.3, and the signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:
  - a. The applicant shall agree to conduct a pre-PV SOLAR FARM construction baseline survey to determine existing STREET conditions for assessing potential future damage including the following:
    - (a) A videotape of the affected length of each subject STREET supplemented by photographs if necessary.
    - (b) Pay for costs of the County to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the PV SOLAR FARM construction.
    - (c) Pay for any strengthening of STREET structures that may be necessary to accommodate the proposed traffic loads caused by the PV SOLAR FARM construction.
  - b. The Applicant shall agree to pay for costs of the County Engineer to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the PV SOLAR FARM construction and pay for any strengthening of structures that may be necessary to accommodate the proposed traffic loads caused by the PV SOLAR FARM construction.
  - c. The Applicant shall agree upon an estimate of costs for any other necessary roadway improvements prior to construction.
  - d. The Applicant shall obtain any necessary approvals for the STREET improvements from the relevant STREET maintenance authority.
  - e. The Applicant shall obtain any necessary Access Permits including any required plans.
  - f. The Applicant shall erect permanent markers indicating the presence of underground cables.



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- g. The Applicant shall install marker tape in any cable trench.
- h. The Applicant shall become a member of the Illinois state wide One-Call Notice System (otherwise known as the Joint Utility Locating Information for Excavators or “JULIE”) and provide JULIE with all of the information necessary to update its record with respect to the PV SOLAR FARM.
- i. The Applicant shall use directional boring equipment to make all crossings of County Highways for the cable collection system.
- j. The Applicant shall notify the STREET maintenance authority in advance of all oversize moves and crane crossings.
- k. The Applicant shall provide the County Engineer with a copy of each overweight and oversize permit issued by the Illinois Department of Transportation for the PV SOLAR FARM construction.
- l. The Applicant shall transport the PV SOLAR FARM loads so as to minimize adverse impact on the local traffic including farm traffic.
- m. The Applicant shall schedule PV SOLAR FARM construction traffic in a way to minimize adverse impacts on emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic.
- n. The Applicant shall provide as much advance notice as in commercially reasonable to obtain approval of the STREET maintenance authority when it is necessary for a STREET to be closed due to a crane crossing or for any other reason. Notwithstanding the generality of the aforementioned, the Applicant will provide 48 hours notice to the extent reasonably practicable.
- o. The Applicant shall provide signs indicating all highway and STREET closures and work zones in accordance with the Illinois Department of Transportation Manual on Uniform Traffic Control Devices.
- p. The Applicant shall establish a single escrow account and a single Irrevocable Letter of Credit for the cost of all STREET upgrades and repairs pursuant to the PV SOLAR FARM construction.
- q. The Applicant shall notify all relevant parties of any temporary STREET closures.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- r. The Applicant shall obtain easements and other land rights needed to fulfill the Applicant’s obligations under this Agreement.
  - s. The Applicant shall agree that the County shall design all STREET upgrades in accordance with the most recent edition of the IDOT Bureau of Local Roads and Streets Manual.
  - t. The Applicant shall provide written Notice to Proceed to the relevant STREET maintenance authority by December 31 of each year that identifies the STREETS to be upgraded during the following year.
  - u. The Applicant shall provide dust control and grading work to the reasonable satisfaction of the County Engineer on STREETS that become aggregate surface STREETS.
  - v. The Applicant shall conduct a post-PV SOLAR FARM construction baseline survey similar to the pre-PV SOLAR FARM construction baseline survey to identify the extent of repairs necessary to return the STREETS to the pre-PV SOLAR FARM construction condition.
  - w. The Applicant shall pay for the cost of all repairs to all STREETS that are damaged by the Applicant during the construction of the PV SOLAR FARM and restore such STREETS to the condition they were in at the time of the pre-PV SOLAR FARM construction inventory.
  - x. All PV SOLAR FARM construction traffic shall exclusively use routes designated in the approved Transportation Impact Analysis.
  - y. The Applicant shall provide liability insurance in an acceptable amount to cover the required STREET construction activities.
  - z. The Applicant shall pay for the present worth costs of life consumed by the construction traffic as determined by the pavement management surveys and reports on the roads which do not show significant enough deterioration to warrant immediate restoration.
  - aa. Provisions for expiration date on the agreement.
  - bb. Other conditions that may be required.
- (2) A condition of the County Board SPECIAL USE Permit approval shall be that the Zoning Administrator shall not authorize a Zoning Use Permit for the PV SOLAR FARM until the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality where relevant, has

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

approved a Transportation Impact Analysis provided by the Applicant and prepared by an independent engineer that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality where relevant, that includes the following:

- a. Identify all such public STREETS or portions thereof that are intended to be used by the Applicant during construction of the PV SOLAR FARM as well as the number of loads, per axle weight of each load, and type of equipment that will be used to transport each load.
  - b. A schedule of the across road culverts and bridges affected by the project and the recommendations as to actions, if any, required with respect to such culverts and bridges and estimates of the cost to replace such culverts and bridges.
  - c. A schedule of the anticipated STREET repair costs to be made in advance of the PV SOLAR FARM construction and following construction of the PV SOLAR FARM.
  - d. The Applicant shall reimburse the County Engineer, or Township Highway Commissioner, or municipality where relevant, for all reasonable engineering fees including the cost of a third-party consultant, incurred in connection with the review and approval of the Transportation Impact Analysis.
- (3) At such time as decommissioning takes place, the Applicant or its successors in interest shall enter into a Roadway Use and Repair Agreement with the appropriate highway authority.

G. 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). This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

**Items G.(2) through G.(3) below might go beyond the constraints established by Public Act 102-1123. The Act allows that a project can be required to be compliant with IPCB regulations, but it does not specify that a noise study can be required. Staff is working to verify whether these statements can be included.**

- (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.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- (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 Board may require submission of a noise analysis that meets the standard of paragraph 6.1.7 G.(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 Environment and Land Use Committee aware of complaints about noise that have been received by the Complaint Hotline.
  - b. If the Environment and Land Use Committee determines that the noise is excessive, the Environment and Land Use Committee shall require the Owner or Operator to take responsible steps to mitigate the excessive noise.

H. Standard Conditions for Endangered Species Consultation

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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.

I. 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 for the State Historic Preservation Officer of the Illinois Department of Natural Resources.

J. Standard Conditions for Acceptable Fish and Wildlife Impacts

The applicant shall apply for consultation with the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review. The application shall include a copy of the consultation review by the U.S. Fish and Wildlife Service.

K. 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 6 feet and no more than 25 feet. This limit on fence height is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
- b. 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.

(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

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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 BOARD 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 BOARD or GOVERNING BODY.
- (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

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

for any PV module installation that is no more than 8 feet tall provided that the width of planting shall be authorized by the BOARD 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 BOARD as an alternative visual screen buffer with a width of planting as authorized by the BOARD 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.

L. Operational Standard Conditions

(1) 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 (55 ILCS 100/1 *et. seq.*).
- c. The weed control plan shall be explained in the application.

**Item M below (formerly Section 6.1.5 O Decommissioning and Site Reclamation Plan) might go beyond the constraints established by Public Act 102-1123. Staff is working to verify whether these statements can be included. In addition, staff is working on verifying whether related Section 6.1.1. can be included.**

M. 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 paragraph 6.1.1A. **and**

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

matching the overall deconstruction and land restoration requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The decommissioning and deconstruction requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

- (2) In addition to the purposes listed in subparagraph 6.1.1A.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 paragraph 6.1.1A. shall also include the following:
  - a. A stipulation that the applicant or successor shall notify the GOVERNING BODY by certified mail of the commencement of voluntary or involuntary bankruptcy proceeding, naming the applicant as debtor, within ten days of commencement of 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 the 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 GOVERNING BODY 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 at such time as decommissioning takes place the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
  - e. 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.



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- f. 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.
- g. The decommissioning and site reclamation plan shall provide for payment of any associated costs that Champaign 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 fees; and, the costs of preparing requests for proposals and bidding documents required to comply with State law or Champaign COUNTY purchasing policies.
- h. The depth of removal of foundation concrete below ground shall be a minimum of 54 inches as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. 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.
- i. Underground electrical cables of a depth of 5 feet or greater may be left in place.
- j. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows: as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (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

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

~~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 of 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 paragraph. The certification shall be submitted to the Zoning Administrator.~~

~~(d) — An Illinois Licensed Professional Engineer 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.~~

- k. 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.
- l. 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.
- m. 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 financial assurance.
- n. 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

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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 paragraph 6.1.1A.5., the Applicant shall provide financial assurance in the form of an irrevocable letter of credit 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 Section 6.1.1A.4.a. and 6.1.1A.4.b., and 6.1.1A.4c. and shall otherwise be compliant with Section 6.1.1A.5. except that if the PV SOLAR FARM modules have an unlimited warranty of at least 10 years and also have a limited power warranty to provide not less than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Use Permit approval, financial assurance may be provided for the decommissioning and site reclamation plan as follows:~~
- ~~a. (a)~~—No Zoning Use Permit to authorize construction of the PV SOLAR FARM shall be authorized by the Zoning Administrator until the PV SOLAR FARM owner shall provide the COUNTY with financial assurance to cover ~~12.5%-10%~~ of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.
- ~~b. (b)~~— On or before the sixth anniversary of the Commercial Operation Date, the PV SOLAR FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~62.5%-50%~~ of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.
- ~~c. (c)~~—On or before the eleventh anniversary of the Commercial Operation Date, the PV SOLAR FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~125% 100%~~ of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5. and as determined in the updated decommissioning and site reclamation plan filed with the County on or before the end of the tenth year of commercial operation.

- bd.** Net salvage value may be deducted for decommissioning costs as follows:
- (a) One of the following standards shall be met:
    - i. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall maintain the PV SOLAR FARM free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or
    - ii. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall deduct from the salvage value credit the amount of any lien or encumbrance on the PV SOLAR FARM; or
    - iii. Any and all financing and/or financial security agreements entered into by the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1A.2 that the reclamation work be done.
  - (b) The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall provide proof of compliance with paragraph 6.1.7 M.4.b.(1). prior to the issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.
  - (c) The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall provide in the decommissioning and site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
  - (d) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the PV SOLAR FARM STRUCTURES, equipment, and access roads.

(e) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated net salvage value.

~~(f) The deduction from the estimated decommissioning costs for net estimated salvage value shall be capped at 70% of the total net estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.~~

~~(g) The total financial assurance after deduction of the net estimated salvage value shall not be less than \$1,000 per acre.~~

~~(h) The credit for net estimated salvage value attributable to any PV SOLAR FARM may not exceed the estimated cost of removal of the above-ground portion of that PV SOLAR FARM on the subject site.~~

**ee.** The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.

**ef.** 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 PV SOLAR FARM modules have an unlimited warranty of a least 10 years and also have a limited power warranty to provide not less than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Use Permit 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,~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

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. The Applicant or its successors in interest shall file an updated decommissioning and site reclamation plan with the County on or before the end of the tenth year of commercial operation.

(b) The County shall reevaluate the estimated costs of decommissioning and site reclamation every five years after the tenth anniversary of the commercial operation date. The solar farm owner shall provide an updated estimated cost of decommissioning and site reclamation that is provided by an independent Illinois licensed professional engineer.

(bc) At all times, the value of the irrevocable letter of credit 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.

eg. The long term corporate debt (credit) rating of the letter of credit 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 Standard and Poor's Financial Services LLC (S&P) and/or Moody's Investors Service (Moody's) and/or the Kroll Bond Rating Agency.
- (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 "A3" by Moody's, or a rating of "A-" by Kroll Bond Rating Agency.
- (c) Whenever the most current long term corporate debt (credit) rating of the proposed financial institution by either S&P, Moody's, or Kroll Bond Rating Agency is lower than

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

the minimum acceptable long term corporate debt (credit) rating, the letter of credit shall be replaced with a new irrevocable letter of credit from an issuing financial institution whose most current long term corporate debt (credit) rating by either S&P, Moody's, or Kroll Bond Rating Agency meets or exceeds the minimum acceptable long term corporate debt (credit) rating.

~~f. At all times the value of the irrevocable letter of credit 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.~~

gh. Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.7 M.4.d., the amount of the irrevocable letter of credit pursuant to this paragraph 6.1.7 M.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

hi. Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 N. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.

ij. Unless the Governing Body approves otherwise, the Champaign County State's Attorney's Office shall review and approve every Letter of Credit prior to acceptance by the Zoning Administrator.

~~(5) In addition to the conditions listed in subparagraph 6.1.1A.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.~~



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- 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 paragraph 6.1.5D, or failed to submit it to the COUNTY within 12 consecutive months of receiving a Zoning Use Permit regardless of the efforts of the Applicant to obtain such certification.~~
- (6) The Zoning Administrator may, but is not required to, deem the PV SOLAR FARM abandoned, ~~or the standards set forth in Section 6.1.7 M.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 Board and the signed and executed irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.
- N. Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (1) The Applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.



**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

- (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 Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the SPECIAL USE Permit.
- (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

O. Application Requirements

- (1) In addition to all other information required on the SPECIAL USE Permit application and required by Section 9.1.11 A.2., the application shall contain or be accompanied by the following information:
  - a. A PV SOLAR FARM Project Summary, including, to the extent available:
    - (a) A general description of the project, including its approximate DC and AC generating capacity; the maximum number and type of solar devices, and the potential equipment manufacturer(s).
    - (b) The specific proposed location of the PV SOLAR FARM including all tax parcels on which the PV SOLAR FARM will be constructed.
    - (c) The specific proposed location of all tax parcels required to be included in the PV SOLAR FARM COUNTY Board SPECIAL USE Permit.
    - (d) A description of the Applicant, Owner and Operator, including their respective business structures.
  - b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) for the PV SOLAR FARM SPECIAL USE Permit.
  - c. A site plan for the PV SOLAR FARM indicating the following:
    - (a) The approximate planned location of al PV SOLAR FARM STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, access driveways, solar

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

devices, electrical inverter(s), electrical transformer(s), cabling, switching station, electrical cabling from the PV SOLAR FARM to the Substation(s), ancillary equipment, screening and fencing, third party transmission lines, meteorological station, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.

- (b) The site plan shall clearly indicate the area of the proposed PV SOLAR FARM SPECIAL USE Permit.
- (c) The location of all below-ground wiring.
- (d) The location, height, and appearance of all above-ground wiring and wiring structures.
- (e) The separation of all PV SOLAR FARM structures from adjacent DWELLINGS and/or PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit. Greater separation and somewhat different locations may be provided in the approved site plan for the Zoning Use Permit provided that the greater separation does not increase the noise impacts and/or glare that were approved in the PV SOLAR FARM SPECIAL USE Permit. PV SOLAR FARM structures include substations, third party transmission lines, maintenance and management facilities, or other significant structures.

d. All other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.

- (2) The Applicant shall notify the COUNTY of any changes to the information provided above that occurs while the SPECIAL USE Permit application is pending.
- (3) The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Special Use Permit Application.

P. Deadline for Start of Public Hearing and Governing Body Determination

- (1) A public hearing for a PV SOLAR FARM shall begin within 45 days of filing a complete SPECIAL USE Permit application. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

**EXHIBIT A: PROPOSED AMENDMENT DATED 5/3/23 – STRICT INTERPRETATION**

(2)..... A decision on the SPECIAL USE Permit shall be made within 30 days after the conclusion of the public hearing. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

Q. .... The approval of a PV SOLAR FARM shall not be conditioned on a property value guarantee and shall not require a facility owner to pay into a neighboring property devaluation escrow account. This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

**11. .... Add new Section 9.1.11. C.5. as follows:**

5. .... Statutory requirements in Section 6.1.5 or Section 6.1.7. shall not be construed to be inadequate in any way and shall not be the basis for negative Findings of Fact for any WIND FARM or PV SOLAR FARM.

**12. .... Add new Section 9.1.11 D.9. as follows:**

9. .... No WIND FARM or PV SOLAR FARM approval shall include any special condition or waiver that changes any statutory requirement in Section 6.1.5 or Section 6.1.7.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

**New since 3/9/23 ELUC meeting**

**Text to reintroduce based on 3/27/23 IACBM Seminar**

**New since 3/30/23 ZBA meeting**

**1. Add definitions in Section 3. Definitions:**

FACILITY OWNER: (i) a person with a direct ownership interest in a WIND FARM or a PV SOLAR FARM, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

NON-PARTICIPATING PROPERTY: real property that is not a PARTICIPATING PROPERTY.

OCCUPIED COMMUNITY BUILDING: any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

PARTICIPATING PROPERTY: real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities.

**2. Revise definitions in Section 3. Definitions:**

DWELLING ~~or PRINCIPAL BUILDING~~, PARTICIPATING: A DWELLING on land that is leased to a WIND FARM or PV SOLAR FARM.

DWELLING ~~or PRINCIPAL BUILDING~~, NON-PARTICIPATING: A DWELLING on land that is not leased to a WIND FARM or PV SOLAR FARM.

PV SOLAR FARM, COMMUNITY: A PV SOLAR FARM of not more than 2,0005,000 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 totaling 5 MW. 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.

**3. Revise Section 6.1.1 A.5.a. and b. as follows:**

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

5. No Zoning Use permit for such SPECIAL USE will be issued until the applicant provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana, Illinois, or reasonable anticipated travel costs shall be added to the amount of the letter of credit.
  - a. Unless specified elsewhere in this Ordinance, the irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer’s cost estimate to complete the work described in Section 6.1.1A.4.a., Section 6.1.1A.4.b., and Section 6.1.1A.4.c. **This requirement shall not apply to any WIND FARM or SOLAR FARM approved after {effective date}.**
  - b. The provisions of this subparagraph notwithstanding, a different amount may be required as a special condition. **This requirement shall not apply to any WIND FARM or SOLAR FARM approved after {effective date}.**

**4. Add new Section 6.1.1 A.7.f. as follows:**

- f. **For any WIND FARM or SOLAR FARM approved after {effective date}, abandonment shall be limited to only when the decommissioning and site reclamation plan has not been completed with 12 months after a SOLAR FARM reaches the end of its useful life or when the decommissioning and site reclamation plan has not been completed within 18 months after a WIND FARM reaches the end of its useful life. A WIND FARM or SOLAR FARM shall be presumed to have reached the end of its useful life if the owner of the WIND FARM or SOLAR FARM fails for a period of six consecutive months to pay the landowner amounts owed in accordance with the underlying agreement and additionally, a WIND FARM shall be presumed to have reached the end of its useful life if no electricity shall have been generated for a continuous period of 12 months.**

**5. Add new Section 6.1.1 A.9.h. as follows:**

- h. **For any WIND FARM or SOLAR FARM approved after {effective date}, the Zoning Administrator may only draw on the funds only when the decommissioning and site reclamation plan has not been completed with 12 months after a SOLAR FARM reaches the end of its useful life or when the decommissioning and site reclamation plan has not been completed with 18 months after a WIND FARM reaches the end of its useful life. A WIND FARM or SOLAR FARM shall be presumed to have reached the end of its useful life if the if the owner of the WIND FARM or SOLAR FARM fails for a period of six consecutive months to pay the landowner amounts owed in accordance with the underlying agreement and additionally, a WIND FARM shall be presumed to have reached the end of its useful life if no electricity shall have been generated for a continuous period of 12 months.**

**6. Revise Section 6.1.1 A.11.b. as follows:**

11. The proceeds of the letter of credit may only be used by the COUNTY to:

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- a. remove the NON-ADAPTABLE STRUCTURE and return the site to its condition prior to 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. **for other than any WIND FARM or SOLAR FARM approved after {effective date}**, 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 Champaign County purchasing policies; and
- c. remove any covenants placed on the title in conjunction with Section 6.1.1A.2.

The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.

**7. Revise the statement at the beginning of Section 6.1.4 as follows:**

**Prior to <effective date>, a WIND FARM County BOARD SPECIAL USE Permit may only be authorized in the AG-1, Agriculture Zoning DISTRICT subject to the following conditions:**

**8. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE PERMIT as follows:**

As of <effective date>, a WIND FARM SPECIAL USE Permit may only be authorized in the AG-1, AG-2, I-1, and I-2 Zoning DISTRICTS subject to the following conditions:

**A. General Standard Conditions**

- 1. The area of the WIND FARM County Board SPECIAL USE Permit must include the following minimum areas:
  - a. All land that is a distance equal to 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of that WIND FARM TOWER.
  - 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 WIND FARM ACCESSORY STRUCTURES including electrical distribution lines, transformers, common switching stations, and substations not under the ownership of a PUBLICLY REGULATED UTILITY. For purposes of determining the minimum area of the SPECIAL USE Permit,

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

underground cable installations shall be provided a minimum 40 feet wide area.

- d. All land that is within 1.50 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the base of each WIND FARM TOWER except any such land that is more than 1,320 feet from any existing public STREET right of way.
  - e. All land area within 1,320 feet of a public STREET RIGHT OF WAY that is also within 1,000 feet from the base of each WIND FARM TOWER except that in the case of WIND FARM TOWERS in compliance with the minimum STREET separation required by paragraph 6.1.5 C.4. in which case land on the other side of the public STREET right of way does not have to be included in the SPECIAL USE Permit.
2. The WIND FARM County Board 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.
  - b. Less than one mile from the CR, Conservation-Recreation Zoning DISTRICT.
  - c. In any area leased for underground gas storage or under easement for same, unless the lease or easement requires that gas injection wells and other above-ground appurtenances be located in conformance with paragraph 6.1.5 C.9.
3. 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 paragraph 6.1.5 R.
4. 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 Right to Farm Resolution 3425.

**B. Minimum Lot Standards**

- 1. There are no minimum LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, or maximum LOT COVERAGE requirements for a WIND FARM or for LOTS for WIND FARM TOWERS, substations, and WIND FARM maintenance and management facilities.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- C. Minimum Standard Conditions for Separations for WIND FARM TOWERS from adjacent USES and STRUCTURES.

The location of each WIND FARM TOWER shall provide the following required separations:

1. At least 1.1 times the maximum blade tip height of the wind tower from the center of the base of a WIND FARM TOWER to the nearest point on the outside wall of any PARTICIPATING DWELLING provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
2. At least 2.1 times the maximum blade tip height of the wind tower from the center of the base of a WIND FARM TOWER to the nearest point on the outside wall of any existing NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING provided that the noise level caused by the WIND FARM at the particular building complies with the applicable Illinois Pollution Control Board regulations. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
3. The above separations may be reduced to a distance no less than 1.10 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) upon submission of a PRIVATE WAIVER signed by the owner of said NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING or adjacent property. The PRIVATE WAIVER must specify the agreed minimum separation and specifically acknowledge that the grantor accepts the resulting noise level caused by the WIND FARM.
4. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of the base of a WIND FARM TOWER to the center point of the public STREET RIGHT OF WAY. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
5. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of the base of a WIND FARM TOWER to the nearest non-participating property line. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said non-participating property. The PRIVATE WAIVER must specify the agreed minimum separation. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

6. A separation distance equal to 1.1 times the total WIND FARM TOWER height (measured to the tip of the highest rotor blade) from the center of the base of a WIND FARM TOWER to the nearest easement for a third-party electrical transmission lines. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said electrical transmission line. The PRIVATE WAIVER must specify the agreed minimum separation. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
7. Any PRIVATE WAIVER establishing an agreement for a lesser minimum separation as authorized above shall be submitted prior to the final determination by the Board and must be recorded as part of the chain of title in the deed to any relevant tract of land prior to authorization of any relevant ZONING USE PERMIT. No waiver of a standard condition shall be required in the event of a duly agreed and signed PRIVATE WAIVER.
8. At least 2.1 times the maximum blade tip height of the WIND TOWER to the nearest point on the property line of fish and wildlife areas and Illinois Nature Preserve Commission protected lands. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
9. At least 1,200 feet separation from the ~~exterior above ground center of the~~ base of a WIND FARM TOWER to any wellhead or other above ground fixture that is accessory to a GAS PIPELINE or to any valve or other above ground fixture for any HAZARDOUS LIQUID PIPELINE, provided however, that if the relevant PIPELINE IMPACT RADIUS required by paragraph 4.3.4H. is greater than 1,200 feet then that PIPELINE IMPACT RADIUS shall be the minimum separation of any of the above. This separation may be reduced upon submission of a PRIVATE WAIVER signed by the owner of said pipeline. The PRIVATE WAIVER must specify the agreed minimum separation.
10. At least 1,600 feet separation from the ~~exterior above ground center of the~~ base of a WIND FARM TOWER to any Liquefied Natural Gas Storage; or Liquefied Petroleum Gas Storage; or Gasoline and Volatile Oils Storage exceeding 10,000 gallons capacity in the aggregate.
11. For any legal RESTRICTED LANDING AREA that existed on or for which there had been a complete SPECIAL USE Permit application received by April 22, 2010, there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:
  - a. The separation from the sides and ends of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.
  - b. An additional separation from the end of the runway shall be 15 feet for each one foot of overall WIND FARM TOWER HEIGHT.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

in a trapezoidal shape that is the width of the runway approach zone based on the requirements of 92 Ill. Admin Code 14.520, except as follows:

- (1) that part of the separation that is more than 3,000 feet from the end of the runway may be a consistent width based on the widest point of the runway approach zone.

12. For any legal RESIDENTIAL AIRPORT that existed on or for which there had been a complete SPECIAL USE Permit application received by April 22, 2010 there shall be a separation from the runway to the nearest tip of a blade of the nearest WIND FARM TOWER as follows:

- a. The separation from the sides and ends of the runway shall be seven horizontal feet for each one foot of overall WIND FARM TOWER HEIGHT.
- b. An additional separation from the end of the runway and for a distance of 50 feet on either side of an end of the runway, shall be 20 feet for each one foot of overall WIND FARM TOWER HEIGHT in a trapezoidal shape that is the width of the runway approach zone based on the requirements of 92 Ill. Admin Code 14.520, except as follows:

- (1) that part of the required separation that is more than 3,000 feet from the end of the runway may be consistent width based on the widest part of the runway approach zone.

**D. Standard Conditions for Design and Installation of WIND FARM TOWERS.**

**1. Design Safety Certification**

- a. WIND FARM TOWERS, turbines, and all related construction shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energy (“GL”), or equivalent third party. Documentation of compliance must be submitted prior to receiving a Zoning Compliance Certificate for either the WIND FARM or for any single WIND FARM TOWER.
- b. Each Zoning Use Permit Application for a WIND FARM TOWER shall include a certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer that the foundation and tower design of the WIND FARM TOWER is within accepted professional standards, given local soil and climate conditions.

**2. Controls and Brakes**

- a. All WIND FARM TOWER turbines shall be equipped with a redundant braking system. This includes both aerodynamic over

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes.

b. Mechanical brakes shall be operated in fail-safe mode.

c. Stall regulation shall not be considered a sufficient braking system for over speed protection.

3. Electrical Components. All electrical components of the WIND FARM shall conform to applicable state and national codes including, any relevant national and international standards (e.g. ANSI and International Electrical Commission).

4. The WIND FARM TOWER must be a monopole construction.

5. The total WIND FARM TOWER height (measured to the tip of the highest rotor blade) must receive a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.

6. WIND FARM TOWERS, turbine nacelles, and blades shall be painted white or gray or another non-reflective, unobtrusive color as specified in the application and authorized by the Board.

7. WIND FARMS shall utilize minimal lighting that is compliant with the applicable FAA regulations, as amended by the FAA. To the extent that such tower lighting is available, and is approved by the FAA for a WIND FARM project, the facility owner shall install Aircraft Detection Lighting Systems (ADLS) or other similar technology to reduce light pollution and visual impacts caused by the WIND FARMS.

8. Warnings

a. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.

b. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

9. All WIND FARM TOWERS must be protected from unauthorized climbing by devices such as fences at least six feet high with locking portals or anti-climbing devices 12 feet vertically from the base of the WIND FARM TOWER.

E. Standard Conditions to Mitigate Damage to Farmland

1. All underground wiring or cabling for the WIND FARM shall be at a minimum depth as established by the Agricultural Impact Mitigation

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.

2. Protection of agricultural drainage tile
  - a. Protection of agricultural drainage tile shall comply with the Agriculture Impact Mitigation Agreement with the Illinois Department of Agriculture as required by Section 6.1.5 R.
3. All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by WIND FARM construction and/or decommissioning shall be restored by the applicant to the pre-WIND FARM construction condition in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
4. Topsoil replacement
  - a. All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
5. Mitigation of soil compaction and rutting
  - a. All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
6. Land leveling
  - a. The applicant shall not be responsible for leveling of disturbed land if exempted by the WIND FARM lease.
  - b. All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
7. Permanent Erosion and Sedimentation Control Plan
  - a. Prior to the approval of any Zoning Use Permit, the Applicant shall provide a permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.
  - b. As-built documentation of all permanent soil erosion and sedimentation improvements for all WIND FARM TOWER sites

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

and access roads prepared by an Illinois Licensed Professional Engineer shall be submitted and accepted by the Zoning Administrator prior to approval of any Zoning Compliance Certificate.

F. Standard Conditions for Use of Public STREETS

Any WIND FARM applicant proposing to use any County Highway or township or municipal STREET for the purpose of transporting WIND FARM TOWERS or Substation parts and/or equipment for construction, operation, or maintenance of the WIND FARM TOWERS or Substation(s), shall identify all such public STREETS and pay the costs of any necessary permits and costs to repair any damage to the STREETS specifically and uniquely attributable to the WIND FARM construction, as follows:

1. The Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer; or Township Highway Commissioner; or municipality where relevant. Agreements with the County Engineer shall not be forwarded to the County Board before the WIND FARM SPECIAL USE permit is forwarded. All other agreements shall be executed prior to the close of the public hearing before the BOARD. The signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:
  - a. The applicant shall agree to conduct a pre-WIND FARM construction baseline survey to determine existing STREET conditions for assessing potential future damage including the following:
    - (1) A videotape of the affected length of each subject STREET supplemented by photographs if necessary.
    - (2) Pay for costs of the County to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction.
    - (3) Pay for any strengthening of STREET structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.
  - b. The applicant shall agree to pay for costs of the County Engineer to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the WIND FARM construction and pay for any strengthening of structures that may be necessary to accommodate the proposed traffic loads caused by the WIND FARM construction.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- c. The applicant shall agree upon an estimate of costs for any other necessary roadway improvements prior to construction.
- d. The applicant shall obtain any necessary approvals for the STREET improvements from the relevant STREET maintenance authority.
- e. The applicant shall obtain any necessary Access Permits including any required plans.
- f. The applicant shall erect permanent markers indicating the presence of underground cables.
- g. The applicant shall install marker tape in any cable trench.
- h. The applicant shall become a member of the Illinois statewide One-Call Notice System (otherwise known as the Joint Utility Locating Information for Excavators or “JULIE”) and provide JULIE with all of the information necessary to update its record with respect to the WIND FARM.
- i. The applicant shall use directional boring equipment to make all crossings of County Highways for the cable collection systems.
- j. The applicant shall provide plans for the widening of any corner radius that is necessary to facilitate the turning movements of the transport trucks used by the applicant.
- k. The applicant shall pay for the necessary temporary STREET improvements for the widened corner radii and pay for the cost to return the widened radii to their original lines and grades when no longer needed for the WIND FARM construction unless the STREET maintenance authority requests that the widened radii remain as improved.
- l. The applicant shall notify the STREET maintenance authority in advance of all oversize moves and crane crossings.
- m. The applicant shall provide the County Engineer with a copy of each overweight and oversize permit issued by the Illinois Department of Transportation for WIND FARM construction.
- n. The applicant shall transport the WIND FARM TOWER segments and other oversize loads so as to minimize adverse impact on the local traffic including farm traffic.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- o. The applicant shall schedule WIND FARM construction traffic in a way to minimize adverse impacts on emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic.
- p. The applicant shall provide as much advance notice as is commercially reasonable to obtain approval of the STREET maintenance authority when it is necessary for a STREET to be closed due to a crane crossing or for any other reason. Notwithstanding the generality of the aforementioned, the applicant will provide 48 hours notice to the extent reasonably practicable.
- q. The applicant shall provide signs indicating all highway and STREET closures and work zones in accordance with the Illinois Department of Transportation Manual on Uniform Traffic Control Devices.
- r. The applicant shall establish a single escrow account and a single Irrevocable Letter of Credit for the cost of all STREET upgrades and repairs pursuant to the WIND FARM construction.
- s. The applicant shall notify all relevant parties of any temporary STREET closures.
- t. The applicant shall obtain easements and other land rights needed to fulfill the applicant's obligations under this agreement.
- u. The applicant shall provide written Notice to Proceed to the relevant STREET maintenance authority by December 31 of each year that identifies the STREETS to be upgraded during the following year.
- v. The applicant shall provide dust control and grading work to the reasonable satisfaction of the County Engineer on STREETS that become aggregate surface STREETS.
- w. The applicant shall conduct a post-WIND FARM construction baseline survey similar to the pre-WIND FARM construction baseline survey to identify the extent of repairs necessary to return the STREET to the pre-WIND FARM construction condition.
- x. The applicant shall pay for the cost of all repairs to all STREETS that are damaged by the applicant during the construction of the WIND FARM and restore such STREETS to the condition they were in at the time of the pre-WIND FARM construction inventory.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- y. All WIND FARM construction traffic shall exclusively use routes designated in the approved Transportation Impact Analysis.
  - z. The applicant shall provide liability insurance in an acceptable amount to cover the required STREET construction activities.
  - aa. The applicant shall pay for the present worth costs of life consumed by the construction traffic as determined by the pavement management surveys and reports on the roads which do not show significant enough deterioration to warrant immediate restoration.
  - bb. Provisions for expiration date on the agreement.
  - cc. Other conditions that may be required.
2. A condition of the County Board SPECIAL USE Permit approval shall be that the Zoning Administrator shall not authorize a Zoning Use Permit for the WIND FARM until the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, has approved a Transportation Impact Analysis provided by the applicant and prepared by an independent engineer that is mutually acceptable to the applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, that includes the following:
- a. Identify all such public STREETS or portions thereof that are intended to be used by the applicant during construction of the WIND FARM as well as the number of loads, per axle weight of each load; and type of equipment that will be used to transport each load.
  - b. A schedule of the access road culverts and bridges affected by the project and the recommendations as to actions, if any, required with respect to such culverts and bridges and estimates of the cost to replace such culverts and bridges.
  - c. A schedule of the anticipated STREET repair costs to be made in advance of the WIND FARM construction and following construction of the WIND FARM.
  - d. The applicant shall reimburse the County Engineer; or Township Highway Commissioner; or municipality where relevant, for all reasonable engineering fees including the costs of a third party consultant, incurred in connection with the review and approval of the Transportation Impact Analysis.



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

3. At such time as decommissioning takes place the Applicant or its successors in interest shall enter into a Roadway Use and Repair Agreement with the appropriate highway authority.

**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 to Mitigate Electromagnetic Interference**

1. The applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan.
2. To the extent that any relevant microwave transmission provider and local emergency service provider demonstrates a likelihood of interference with its communications resulting from the WIND FARM, the applicant shall take reasonable measures to mitigate such anticipated interference.
3. If, after construction of the WIND FARM, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint.
4. If, after construction of the WIND FARM, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, the Owner or Operator shall take reasonable steps to respond to the complaint.

**I. Standard Conditions for Allowable Noise Level**

1. Noise levels from each WIND FARM TOWER or WIND 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). This is a statutory requirement by 55 ILCS 5/5-12020 shall not be changed.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

2. The applicant shall submit manufacturer’s wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics 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.
  4. The applicant shall submit a map of the relevant noise contours for the proposed WIND FARM and indicate the proposed WIND FARM TOWERS and all existing PRINCIPAL BUILDINGS within at least 1,500 feet of any WIND FARM TOWER or within the coverage of the relevant noise contours.
  5. If a computer model is used to generate the required noise contours the applicant shall clearly state the assumptions of the model’s construction and algorithms so that a competent and objective third party can as simply as possible verify the noise contours and noise data.
  6. After construction of the WIND 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 may seek authorization from the County Board to hire a noise consultant to determine the noise produced by the WIND FARM in a manner consistent with the Illinois Pollution Control Board (IPCB) regulations (*35 Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
    - b. The Zoning Administrator may require the WIND FARM owner to cooperate fully with the noise consultant in the enforcement action including shutting down all wind turbines to allow documentation of ambient noise levels.
    - c. In the event that a violation of the IPCB noise regulations is identified the Zoning Administrator may require the WIND FARM owner to take whatever actions are necessary to stop the violation and comply with the noise regulations. The Zoning Administrator may seek direction from the Environment and Land Use Committee regarding the actions necessary to stop the violation.
    - d. Further, in the event that a violation of IPCB noise regulations is identified the WIND FARM owner shall reimburse to the County the cost of the noise consultant.
- J. Standard Conditions for Endangered Species Consultation

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

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 or, if applicable, a copy of the Detailed Action 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.

K. 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.

L. Standard Conditions for Fish and Wildlife Impacts

The applicant shall apply for consultation with the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines." The application shall include a copy of the consultation review from the U.S. Fish and Wildlife Service.

M. Standard Conditions for Shadow Flicker

1. The applicant shall submit the results of a study on potential shadow flicker. The shadow flicker study shall identify the locations of both summer and winter shadow flicker that may be caused by the project ~~with an expected duration of 30 hours or more per year.~~
2. ~~Shadow flicker that exceeds the above standards shall be mitigated by any means such as landscaping, awnings, or fencing. No OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING shall experience more than 30 hours per year of shadow flicker under planned operating conditions. This duration is a statutory requirement by 55 ILCS 5/5-12020 and shall not be decreased.~~

N. Standard Condition for Liability Insurance

1. The Owner or Operator of the WIND 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 \$520 million in the aggregate. The amount of the limit shall be increased annually to account for the effects of inflation.
2. The general liability policy shall identify landowners in the SPECIAL USE Permit as additional insured.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

**O. Operational Standard Conditions**

**1. Maintenance**

- a. The Owner or Operator of the WIND FARM must submit, on an annual basis, a summary of the operation and maintenance reports to the Environment and Land Use Committee and any other operation and maintenance reports as the Environment and Land Use Committee reasonably requests.
- b. Any physical modification to the WIND FARM that alters the mechanical load, mechanical load path, or major electrical components shall require a new County Board 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. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in subparagraph 6.1.5 D.1.(a) to determine whether the physical modification requires re-certification.

**2. Materials Handling, Storage and Disposal**

- a. All solid wastes related to the construction, operation and maintenance of the WIND 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 WIND FARM shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

**P. Standard Condition for Decommissioning Plan and Site Reclamation Plan**

1. The applicant shall submit a signed site reclamation plan conforming to the requirements of paragraph 6.1.1 A. and matching the overall deconstruction and land restoration requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The decommissioning and deconstruction requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture are a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
2. In addition to the purposes listed in subparagraph 6.1.1 A.4. the reclamation agreement shall also include provisions for anticipated repairs for any public STREET used for the purpose of reclamation of the WIND FARM and all costs related to removal of access driveways.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

3. The Site Reclamation Plan required in paragraph 6.1.1 A. shall also include the following:
  - a. A stipulation that the applicant shall notify the GOVERNING BODY by certified mail of the commencement of a 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 at law, or such other transfer of applicant's financial interest in the WIND FARM shall in no way affect or change applicant's obligation to continue to comply with the terms of this agreement. Any successor or assignee shall assume the terms, covenants and obligations of this Agreement and agrees to assume all reclamation liability and responsibility for the WIND FARM.
  - c. Authorization for the GOVERNING BODY and its authorized representatives for right of entry onto the WIND FARM premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.
  - d. A stipulation that at such time as decommissioning takes place, the Applicant or its successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
  - e. A stipulation that the Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.
  - f. A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND 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.
  - g. The site reclamation plan shall provide for payment of any associated costs that Champaign 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 request for proposals and bidding

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

documents required to comply with State law or Champaign County purchasing policies.

- h. The depth of removal of foundation concrete below ground shall be a minimum of 54 inches as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. 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.
- i. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows: as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

~~(1) — 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 WIND 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.~~

~~(2) — The native soils excavated at the time of the original WIND 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 WIND FARM. The methods for storing the excavated native soils during the operating lifetime of the WIND FARM shall be included in the site reclamation plan.~~

~~(3) — 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 paragraph. The certification shall be submitted to the Zoning Administrator.~~

~~(4) — An Illinois Licensed Professional Engineer 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~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~expected to be no less than 54 inches within one year after backfilling.~~

- j. A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WIND FARM SPECIAL USE Permit shall be deemed void.
  - k. A stipulation that the Applicant's obligation to complete the 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 site reclamation plan or any breach of the 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 WIND 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 paragraph 6.1.1A.5., the Applicant shall provide financial assurance in the form of ~~an irrevocable letter of credit and~~ an escrow account as follows:
- a. ~~At the time of SPECIAL USE Permit approval the amount of financial assurance to be provided for the site reclamation plan shall be 210% of the decommissioning costs as determined in the independent engineer's cost estimate to complete the decommissioning work described in Section 6.1.1 A.4.a. and 6.1.1A.4.b and 6.1.1A.4.e. No Zoning Use Permit to authorize construction of the WIND FARM shall be authorized by the Zoning Administrator until the WIND FARM owner shall provide the COUNTY with financial assurance to cover 12.5% 10% of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

b. On or before the sixth anniversary of the Commercial Operation Date, the WIND FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~62.5%~~ 50% of the decommissioning cost and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

c. On or before the eleventh anniversary of the Commercial Operation Date, the WIND FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~125%~~ 100% of the decommissioning and site reclamation cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5. and as determined in the updated decommissioning and site reclamation plan filed with the County on or before the end of the tenth year of commercial operation.

bd. Net salvage value may be deducted from decommissioning costs as follows:

- (1) One of the following standards shall be met:
  - i. The Applicant shall maintain the WIND FARM TOWERS free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or
  - ii. The Applicant shall deduct from the salvage value credit the amount of any lien or encumbrance on each WIND FARM TOWER; or
  - iii. Any and all financing and/or financial security agreements entered into by the Applicant shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1 A.2 that the reclamation work be done.
- (2) The applicant shall provide proof of compliance with paragraph 6.1.5 P.4.d.(1) prior to issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- (3) The Applicant shall provide in the site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
- (4) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the tower, the hub assembly, the bed plate, the nacelle, the turbine, the blades, the tower cabling and internal wiring, the transformers, the foundation, the access roads.
- (5) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgment as to anticipated changes in salvage prices prior to the next update of estimated net salvage value.

~~(6) The deduction from the estimated decommissioning costs for net estimated salvage value shall be capped at 70% of the total net estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.~~

~~(7) The credit for net estimated salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above-ground portion of that WIND FARM TOWER on the subject site.~~

~~ec.~~ The GOVERNING BODY has the right to require multiple ~~letters of credit~~ ~~escrow accounts~~ based on the regulations governing federal insurance for deposits.

~~df.~~ The Applicant ~~and its successors in interest~~ shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:

- ~~(1) At least once every three years for the first 12 years of the financial assurance and at least once every year thereafter the Applicant 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.~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~The Applicant shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator. The Applicant or its successors in interest shall file an updated decommissioning and site reclamation plan with the County on or before the end of the tenth year of commercial operation.~~

(2) ~~The County shall reevaluate the estimated costs of decommissioning and site reclamation every five years after the tenth anniversary of the commercial operation date. The solar farm owner shall provide an updated estimated cost of decommissioning and site reclamation that is provided by an independent Illinois licensed professional engineer.~~

(3) ~~At all times after the tenth anniversary of the commercial operation date, the total combined value of the irrevocable letter of credit and the escrow account shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; and an amount for any future years left in the anticipated 25 year life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.~~

~~eg. The applicant or WIND FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account over the first 13 years of the WIND FARM operation provide an escrow account as follows:~~

(1) The applicant or WIND FARM owner and the GOVERNING BODY shall agree on a mutually acceptable financial institution at which an escrow account shall be established.

(2) The GOVERNING BODY shall be the beneficiary of the escrow account for the purpose of the reclamation of the WIND FARM in the event that the WIND FARM owner is incapable of decommissioning the WIND FARM.

(3) The applicant or WIND FARM owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record, pursuant to the Secured Transit Article of the Uniform Commercial Code, 810 *ILCS* 9/101 *et seq.*

~~(4) The applicant or WIND FARM owner shall make annual deposits to the escrow account over a 12 year period and~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~shall simultaneously provide a replacement irrevocable letter of credit that is reduced accordingly.~~

~~(5) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the life span of the WIND FARM and the amount shall be equal to or exceed the following:~~

~~i. the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; plus~~

~~ii. an amount for any future years left in the anticipated life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.~~

(6) Any interest accrued on the escrow account that is over and above the total value required by subparagraph **6.1.5 P.4** shall go to the WIND FARM owner.

(7) In order to provide funding for decommissioning at the time of decommissioning, the WIND FARM applicant or WIND FARM owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the GOVERNING BODY agreeing to a release of the full amount of the escrow account.

**fh.** Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.5 P.4. **(f)**, the amount to be placed in the escrow account pursuant to this paragraph 6.1.5 P.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

**gi.** Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.

~~5. In addition to the conditions listed in subparagraph 6.1.1A.9. the Zoning Administrator may also draw on the funds for the following reasons:~~

~~a. In the event that any WIND FARM TOWER 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 WIND FARM TOWER or component.~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- b. ~~In the event that the Owner declares any wind turbine or other component to be functionally obsolete for tax purposes.~~
- e. ~~There is a delay in the construction of any WIND FARM TOWER of more than 6 months after construction on that WIND FARM TOWER begins.~~
- d. ~~Any WIND FARM TURBINE 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 WIND FARM TURBINE is otherwise derelict for a period of 6 months.~~
- f. ~~The WIND FARM is in violation of the terms of the WIND FARM SPECIAL USE permit for a period exceeding ninety (90) days.~~
- g. ~~The Applicant 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 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 paragraph 6.1.4D.1.(a) or failed to submit it to the COUNTY within 12 consecutive months of receiving a Zoning Use Permit regardless of the efforts of the Applicant to obtain such certification.~~

65. The Zoning Administrator may, but is not required to, deem the WIND FARM abandoned, ~~or the standards set forth in Section 6.1.5 L.5. met,~~ with respect to some, but not all, of the WIND FARM TURBINES in the WIND FARM. In that event the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to those WIND FARM TURBINES only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining WIND FARM TURBINES in the WIND FARM.

76. The Site Reclamation Plan shall be included as a condition of approval by the BOARD and the signed and executed irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.

Q. Complaint Hotline

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

1. Prior to the commencement of construction on the WIND FARM and during the entire term of the County Board 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.
- R. Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture
1. The Applicant shall enter into an Agricultural Impact Mitigation Agreement 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 Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
  3. All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the COUNTY Board SPECIAL USE Permit.
  4. Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- S. Standard Condition for Expiration of WIND FARM County Board SPECIAL USE Permit
- A WIND FARM County Board SPECIAL USE Permit designation shall expire pursuant to any time limit included in the Roadway Upgrade and Maintenance agreement required by paragraph 6.1.5 F. or in 10 years if no Zoning Use Permit is granted.
- T. Application Requirements

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

1. In addition to all other information required on the SPECIAL USE Permit application and required by Section 9.1.1 A.2. the application shall contain or be accompanied by the following information:
  - a. A WIND FARM Project Summary, including, to the extent available:
    - (1) A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of wind turbines, number of wind turbines, and name plate generating capacity of each wind turbine; the maximum height of the WIND FARM TOWER(S); and the maximum diameter of the WIND FARM TOWER rotor(s).
    - (2) The specific proposed location of the WIND FARM including all tax parcels on which the WIND FARM will be constructed.
    - (3) The specific proposed location of all tax parcels required to be included in the WIND FARM County Board SPECIAL USE Permit.
    - (4) A description of the applicant; Owner and Operator, including their respective business structures.
  - b. The name(s), address(es), and phone number(s) of the applicant(s), Owner and Operator, and all property owner(s) for the WIND FARM County Board SPECIAL USE Permit.
  - c. A site plan for the installation of all WIND FARM TOWERS indicating the following:
    - (1) The approximate planned location of each WIND FARM TOWER, other PRINCIPAL STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substation(s), ancillary equipment, third party transmission lines, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.
    - (2) The site plan shall clearly indicate the area of the proposed WIND FARM County Board SPECIAL USE Permit as required by subparagraph 6.1.5 A.1.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

(3) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR COMMUNITY BUILDINGS or uses shall be shown or dimensioned on the approved site plan for the SPECIAL USE Permit unless the Board authorizes a lesser separation in a special condition of approval or any required and duly authorized waivers of paragraph 6.1.5 C. Authorization of a separation of less than 90% of that indicated on the approved site plan for the SPECIAL USE Permit shall require an updated noise study meeting the requirements of paragraph 6.1.5 G. to be submitted with the Zoning Use Permit application. WIND FARM structures include WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.

- d. The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Special Use Permit Application to authorize construction.
- e. All other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.

2. The applicant shall notify the COUNTY of any changes to the information provided above that occurs while the SPECIAL USE Permit application is pending.

U. The approval of a WIND FARM shall not be conditioned on a property value guarantee and shall not require a facility owner to pay into a neighboring property devaluation escrow account. This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.

V. Deadlines for Start of Public Hearing and Governing Body Determination

1. A public hearing for a WIND FARM shall begin within 45 days of filing a complete SPECIAL USE Permit application. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

2. A decision on the SPECIAL USE Permit shall be made within 30 days after the conclusion of the public hearing. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

9. Renumber all references to Section **6.1.5 PHOTOVOLTAIC (PV) SOLAR FARM County BOARD SPECIAL USE Permit** to new **Section 6.1.6** and add the following statement to the beginning of new Section 6.1.6:

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

Prior to <effective date>, a PHOTOVOLTAIC (PV) SOLAR FARM County BOARD SPECIAL USE Permit may only be authorized in the AG-1, Agriculture, Zoning DISTRICT or the AG-2, Agriculture, Zoning DISTRICT subject to the following standard conditions:

**10. Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR FARM SPECIAL USE Permit as follows:**

As of <effective date>, a PHOTOVOLTAIC (PV) SOLAR FARM SPECIAL USE Permit may only be authorized in the AG-1, AG-2, I-1, and I-2 Zoning DISTRICTS subject to the following conditions:

- A. In what follows, PV SOLAR FARM should be understood to include COMMUNITY PV SOLAR FARM unless specified otherwise in the relevant section or paragraph.
- B. General Standard Conditions
  - (1) The area of the PV SOLAR FARM County BOARD 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 paragraph 6.1.5I.
    - 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 waterwells 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 paragraph 6.1.7 R.

(2) The PV SOLAR FARM County BOARD SPECIAL USE Permit shall not be located in the following areas:



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- a. Less than one and one-half miles from an incorporated municipality that has a zoning ordinance except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include the following:
  - (a) No part of a PV SOLAR FARM shall be located within a contiguous growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit.
  - (b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one and one-half miles from any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.
  - (c) 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.
  - (d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.
  - (e) The public hearing for any proposed PV SOLAR FARM that is located within one and one-half miles of a municipality that has a zoning ordinance shall occur at a minimum of two Board meetings that are not less than 28 days apart to provide time for municipal comments during the public hearing, unless the 28 day comment period is waived in writing by any relevant municipality.
  - (f) For any proposed PV SOLAR FARM that is located within one and one-half miles of a municipality that has a zoning ordinance, the ZONING ADMINISTRATOR shall notify said municipality of the recommendation by the BOARD after the close of the public hearing.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

(g) After the initial review of the BOARD recommendation for the PV SOLAR FARM SPECIAL USE Permit by the Environment and Land Use Committee of the COUNTY BOARD, if the Environment and Land Use Committee makes a preliminary determination to accept the BOARD recommendation, the PV SOLAR FARM SPECIAL USE Permit shall remain at the Environment and Land Use Committee for a maximum 30-day comment period, or until the next regularly scheduled meeting, to allow comments regarding the PV SOLAR FARM SPECIAL USE Permit to be received from any relevant municipal authority prior to the Environment and Land Use Committee recommendation to the COUNTY BOARD, unless the municipal comment period is waived in writing by any relevant municipality. If a PV SOLAR FARM is not located within one and one-half miles of a municipality the Environment and Land Use Committee recommendation can be referred to the COUNTY BOARD without a comment period.

(h) 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 Champaign 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 Environment and Land Use Committee and the COUNTY BOARD.

(3) 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 a Zoning Compliance Certificate to authorize operation of the PV SOLAR FARM.

(4) Right to farm

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- 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 Right to Farm Resolution 3425.

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 for PV SOLAR FARM maintenance and management facilities.
- (2) There is no maximum LOT AREA requirement on BEST PRIME FARMLAND.

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 centerline a minimum of 50 feet. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.
- (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. A separation of 50 feet between the nearest edge of any component of the PV SOLAR FARM and the nearest point on the property line of the non-participating property. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.
  - b. A separation of 150 feet from the nearest edge of any component of the PV SOLAR FARM and the nearest point on the outside wall of an OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING. This separation is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased except as may be required to comply with the applicable noise regulations of the Illinois Pollution Control Board.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- 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.
- (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.
- 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 a Zoning Compliance 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.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- (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. 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. The height limitation established in Section 5.3 shall not apply to a PV SOLAR FARM. The maximum height of all above ground STRUCTURES shall be identified in the application and as approved in the SPECIAL USE Permit. No component of a solar panel shall have a height of more than 20 feet above ground when the solar arrays are at full tilt. This height limit is a statutory requirement by 55 ILCS 5/5-12020 and shall not be increased.

(4) Warnings

- a. 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.

F. Standard Conditions to Mitigate Damage to Farmland

- (1) All underground wiring or cabling for the PV SOLAR FARM shall be at a minimum depth as established by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R.
- (2) Protection of agricultural drainage tile

Protection of agricultural drainage tile shall comply with the Agriculture Impact Mitigation Agreement with the Illinois Department of Agriculture as required by Section 6.1.7 R.
- (3) All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by PV SOLAR FARM construction and/or decommissioning shall be restored by the applicant to the pre-PV SOLAR FARM construction condition in a manner consistent with the Agricultural

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R.

(4) Topsoil replacement

All topsoil shall be placed in a manner consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R.

(5) Mitigation of soil compacting and rutting

- a. The Applicant shall not be responsible for mitigation of soil compaction and rutting if exempted by the PV SOLAR FARM lease.
- b. All mitigation of soil compaction and rutting shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R.

(6) Land leveling

- a. The Applicant shall not be responsible for leveling of disturbed land if exempted by the PV SOLAR FARM lease.
- b. All land leveling shall be consistent with the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R.

(7) Permanent Erosion and Sedimentation Control Plan

- a. Prior to the approval of any Zoning Use Permit, the Applicant shall provide a permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.
- b. As-built documentation of all permanent soil erosion and sedimentation improvements for the PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer shall be submitted and accepted by the Zoning Administrator prior to approval of any Zoning Compliance Certificate.

(8) Retention of all topsoil

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

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.

- (9) Minimize disturbance to BEST PRIME FARMLAND
  - a. Any PV SOLAR FARM to be located on BEST PRIME FARMLAND shall minimize the disturbance to BEST PRIME FARMLAND as follows:
    - (a) The disturbance to BEST 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 BEST 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 Section 6.1.7 P.3.

G. Standard Conditions for Use of Public Streets

Any PV SOLAR FARM Applicant proposing to use any County Highway or a township or municipal STREET for the purpose of transporting PV SOLAR FARM or Substation parts and/or equipment for construction, operation, or maintenance of the PV SOLAR FARM or Substation(s), shall identify all such public STREETS and pay the costs of any necessary permits and the costs to

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

repair any damage to the STREETS specifically and uniquely attributable to the PV SOLAR FARM construction, as follows:

- (1) Prior to the close of the public hearing before the BOARD, the Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, except for any COMMUNITY PV SOLAR FARM for which the relevant highway authority has agreed in writing to waive the requirements of subparagraphs 6.1.7 G.1, 6.1.7 G.2, and 6.1.7 G.3, and the signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:
  - a. The applicant shall agree to conduct a pre-PV SOLAR FARM construction baseline survey to determine existing STREET conditions for assessing potential future damage including the following:
    - (a) A videotape of the affected length of each subject STREET supplemented by photographs if necessary.
    - (b) Pay for costs of the County to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the PV SOLAR FARM construction.
    - (c) Pay for any strengthening of STREET structures that may be necessary to accommodate the proposed traffic loads caused by the PV SOLAR FARM construction.
  - b. The Applicant shall agree to pay for costs of the County Engineer to hire a consultant to make a study of any structure on the proposed route that the County Engineer feels may not carry the loads likely during the PV SOLAR FARM construction and pay for any strengthening of structures that may be necessary to accommodate the proposed traffic loads caused by the PV SOLAR FARM construction.
  - c. The Applicant shall agree upon an estimate of costs for any other necessary roadway improvements prior to construction.
  - d. The Applicant shall obtain any necessary approvals for the STREET improvements from the relevant STREET maintenance authority.
  - e. The Applicant shall obtain any necessary Access Permits including any required plans.



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- f. The Applicant shall erect permanent markers indicating the presence of underground cables.
- g. The Applicant shall install marker tape in any cable trench.
- h. The Applicant shall become a member of the Illinois state wide One-Call Notice System (otherwise known as the Joint Utility Locating Information for Excavators or “JULIE”) and provide JULIE with all of the information necessary to update its record with respect to the PV SOLAR FARM.
- i. The Applicant shall use directional boring equipment to make all crossings of County Highways for the cable collection system.
- j. The Applicant shall notify the STREET maintenance authority in advance of all oversize moves and crane crossings.
- k. The Applicant shall provide the County Engineer with a copy of each overweight and oversize permit issued by the Illinois Department of Transportation for the PV SOLAR FARM construction.
- l. The Applicant shall transport the PV SOLAR FARM loads so as to minimize adverse impact on the local traffic including farm traffic.
- m. The Applicant shall schedule PV SOLAR FARM construction traffic in a way to minimize adverse impacts on emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic.
- n. The Applicant shall provide as much advance notice as in commercially reasonable to obtain approval of the STREET maintenance authority when it is necessary for a STREET to be closed due to a crane crossing or for any other reason. Notwithstanding the generality of the aforementioned, the Applicant will provide 48 hours notice to the extent reasonably practicable.
- o. The Applicant shall provide signs indicating all highway and STREET closures and work zones in accordance with the Illinois Department of Transportation Manual on Uniform Traffic Control Devices.
- p. The Applicant shall establish a single escrow account and a single Irrevocable Letter of Credit for the cost of all STREET upgrades and repairs pursuant to the PV SOLAR FARM construction.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- q. The Applicant shall notify all relevant parties of any temporary STREET closures.
- r. The Applicant shall obtain easements and other land rights needed to fulfill the Applicant's obligations under this Agreement.
- s. The Applicant shall agree that the County shall design all STREET upgrades in accordance with the most recent edition of the IDOT Bureau of Local Roads and Streets Manual.
- t. The Applicant shall provide written Notice to Proceed to the relevant STREET maintenance authority by December 31 of each year that identifies the STREETS to be upgraded during the following year.
- u. The Applicant shall provide dust control and grading work to the reasonable satisfaction of the County Engineer on STREETS that become aggregate surface STREETS.
- v. The Applicant shall conduct a post-PV SOLAR FARM construction baseline survey similar to the pre-PV SOLAR FARM construction baseline survey to identify the extent of repairs necessary to return the STREETS to the pre-PV SOLAR FARM construction condition.
- w. The Applicant shall pay for the cost of all repairs to all STREETS that are damaged by the Applicant during the construction of the PV SOLAR FARM and restore such STREETS to the condition they were in at the time of the pre-PV SOLAR FARM construction inventory.
- x. All PV SOLAR FARM construction traffic shall exclusively use routes designated in the approved Transportation Impact Analysis.
- y. The Applicant shall provide liability insurance in an acceptable amount to cover the required STREET construction activities.
- z. The Applicant shall pay for the present worth costs of life consumed by the construction traffic as determined by the pavement management surveys and reports on the roads which do not show significant enough deterioration to warrant immediate restoration.
- aa. Provisions for expiration date on the agreement.
- bb. Other conditions that may be required.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- (2) A condition of the County Board SPECIAL USE Permit approval shall be that the Zoning Administrator shall not authorize a Zoning Use Permit for the PV SOLAR FARM until the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality where relevant, has approved a Transportation Impact Analysis provided by the Applicant and prepared by an independent engineer that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality where relevant, that includes the following:
  - a. Identify all such public STREETS or portions thereof that are intended to be used by the Applicant during construction of the PV SOLAR FARM as well as the number of loads, per axle weight of each load, and type of equipment that will be used to transport each load.
  - b. A schedule of the across road culverts and bridges affected by the project and the recommendations as to actions, if any, required with respect to such culverts and bridges and estimates of the cost to replace such culverts and bridges.
  - c. A schedule of the anticipated STREET repair costs to be made in advance of the PV SOLAR FARM construction and following construction of the PV SOLAR FARM.
  - d. The Applicant shall reimburse the County Engineer, or Township Highway Commissioner, or municipality where relevant, for all reasonable engineering fees including the cost of a third-party consultant, incurred in connection with the review and approval of the Transportation Impact Analysis.
- (3) At such time as decommissioning takes place, the Applicant or its successors in interest shall enter into a Roadway Use and Repair Agreement with the appropriate highway authority.

**H. 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.

**I. Standard Conditions for Allowable Noise Level**

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- (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). This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
- (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 Board may require submission of a noise analysis that meets the standard of paragraph 6.1.7 G.(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:

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- a. The Zoning Administrator shall make the Environment and Land Use Committee aware of complaints about noise that have been received by the Complaint Hotline.
- b. If the Environment and Land Use Committee determines that the noise is excessive, the Environment and Land Use Committee shall require the Owner or Operator to take responsible steps to mitigate the excessive noise.

J. 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.

K. 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 for the State Historic Preservation Officer of the Illinois Department of Natural Resources.

L. Standard Conditions for Acceptable Fish and Wildlife Impacts

The applicant shall apply for consultation with the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review. The application shall include a copy of the consultation review by the U.S. Fish and Wildlife Service.

M. 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 6 feet and no more than 25 feet. This limit on fence height is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
- b. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- 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.
- (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 BOARD 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 BOARD or GOVERNING BODY.
    - (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.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- 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 authorized by the BOARD 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 BOARD as an alternative visual screen buffer with a width of planting as authorized by the BOARD 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.

**N. 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

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

any significant glare that is occurring, including but not limited to the following:

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

**O. 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 \$520 million in the aggregate.
- (2) The general liability policy shall identify landowners in the SPECIAL USE Permit as additional insured.

**P. 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 Environment and Land Use Committee and any other operation and maintenance reports as the Environment and Land Use 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 County BOARD SPECIAL USE Permit. Like-kind replacements shall not require recertification nor will replacement of transformers, cabling, etc. provided replacement is done in 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 management of wastewater. The BOARD 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 waterwells.

**(2) Materials Handling, Storage and Disposal**



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- 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 (55 ILCS 100/1 *et. seq.*).
- c. The weed control plan shall be explained in the application.

Q. Standard Conditions for Decommissioning and Site Reclamation Plan

- (1) The Applicant shall submit a signed decommissioning and site reclamation plan conforming to the requirements of paragraph 6.1.1A. **and matching the overall deconstruction and land restoration requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.** The decommissioning and deconstruction requirements of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
- (2) In addition to the purposes listed in subparagraph 6.1.1A.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 paragraph 6.1.1A. shall also include the following:
  - a. A stipulation that the applicant or successor shall notify the GOVERNING BODY by certified mail of the commencement of voluntary or involuntary bankruptcy proceeding, naming the

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

applicant as debtor, within ten days of commencement of 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 the 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 GOVERNING BODY 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 at such time as decommissioning takes place the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
- e. 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.
- f. 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.
- g. The decommissioning and site reclamation plan shall provide for payment of any associated costs that Champaign 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 fees; and, the costs of preparing requests for proposals

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

and bidding documents required to comply with State law or Champaign COUNTY purchasing policies.

- h. The depth of removal of foundation concrete below ground shall be a minimum of 54 inches as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. 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.
- i. Underground electrical cables of a depth of 5 feet or greater may be left in place.
- j. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows: as required in the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
  - (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 of 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 paragraph. The certification shall be submitted to the Zoning Administrator.~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~(d) — An Illinois Licensed Professional Engineer 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.~~

- k. 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.
  - l. 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.
  - m. 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 financial assurance.
  - n. 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 paragraph 6.1.1A.5., the Applicant shall provide financial assurance in the form of an irrevocable letter of credit 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 Section 6.1.1A.4.a. and 6.1.1A.4.b., and 6.1.1A.4c. and shall otherwise be compliant with Section 6.1.1A.5. except that if the PV SOLAR FARM modules have an unlimited warranty of at least 10 years~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

and also have a limited power warranty to provide not less than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Use Permit approval, financial assurance may be provided for the decommissioning and site reclamation plan as follows:

~~a. (a)~~—No Zoning Use Permit to authorize construction of the PV SOLAR FARM shall be authorized by the Zoning Administrator until the PV SOLAR FARM owner shall provide the COUNTY with financial assurance to cover ~~12.5%-10%~~ of the decommissioning and site reclamation cost as determined in the independent engineer’s cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

~~b. (b)~~— On or before the sixth anniversary of the Commercial Operation Date, the PV SOLAR FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~62.5%-50%~~ of the decommissioning and site reclamation cost as determined in the independent engineer’s cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5.

~~c. (c)~~—On or before the eleventh anniversary of the Commercial Operation Date, the PV SOLAR FARM Owner shall provide the COUNTY with Financial Assurance to cover ~~125% 100%~~ of the decommissioning and site reclamation cost as determined in the independent engineer’s cost estimate to complete the decommissioning work described in Sections 6.1.1A.4.a. and 6.1.1A.4.b. and 6.1.1A.4.c. and otherwise compliant with Section 6.1.1A.5. and as determined in the updated decommissioning and site reclamation plan filed with the County on or before the end of the tenth year of commercial operation.

~~bd.~~ Net salvage value may be deducted for decommissioning costs as follows:

- (a) One of the following standards shall be met:
  - i. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall maintain the PV SOLAR FARM free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- ii. The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall deduct from the salvage value credit the amount of any lien or encumbrance on the PV SOLAR FARM; or
  - iii. Any and all financing and/or financial security agreements entered into by the Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1A.2 that the reclamation work be done.
- (b) The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall provide proof of compliance with paragraph 6.1.7 M.4.b.(1). prior to the issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.
  - (c) The Applicant, its successors in interest, and all parties to the decommissioning and site reclamation plan shall provide in the decommissioning and site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
  - (d) The net estimated salvage value that is deducted from the estimated decommissioning costs shall be the salvage value that results after all related costs for demolition and any required preparation for transportation for reuse or recycling or for simple disposal and other similar costs including but not limited to the decommissioning of the PV SOLAR FARM STRUCTURES, equipment, and access roads.
  - (e) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated net salvage value.
  - ~~(f) The deduction from the estimated decommissioning costs for net estimated salvage value shall be capped at 70% of the total net estimated salvage value even though the total~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~actual salvage value shall be available in the event that decommissioning is actually required.~~

~~(g) The total financial assurance after deduction of the net estimated salvage value shall not be less than \$1,000 per acre.~~

~~(h) The credit for net estimated salvage value attributable to any PV SOLAR FARM may not exceed the estimated cost of removal of the above ground portion of that PV SOLAR FARM on the subject site.~~

**ee.** The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.

**ef.** 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 PV SOLAR FARM modules have an unlimited warranty of a least 10 years and also have a limited power warranty to provide not less than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Use Permit 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. The Applicant or its successors in interest shall file an updated decommissioning and site reclamation plan with the County on or before the end of the tenth year of commercial operation.

**(b)** The County shall reevaluate the estimated costs of decommissioning and site reclamation every five years after the tenth anniversary of the commercial operation

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

date. The solar farm owner shall provide an updated estimated cost of decommissioning and site reclamation that is provided by an independent Illinois licensed professional engineer.

(bc) At all times, the value of the irrevocable letter of credit 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.

eg. The long term corporate debt (credit) rating of the letter of credit 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 Standard and Poor's Financial Services LLC (S&P) and/or Moody's Investors Service (Moody's) and/or the Kroll Bond Rating Agency.

(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 "A3" by Moody's, or a rating of "A-" by Kroll Bond Rating Agency.

(c) Whenever the most current long term corporate debt (credit) rating of the proposed financial institution by either S&P, Moody's, or Kroll Bond Rating Agency is lower than the minimum acceptable long term corporate debt (credit) rating, the letter of credit shall be replaced with a new irrevocable letter of credit from an issuing financial institution whose most current long term corporate debt (credit) rating by either S&P, Moody's, or Kroll Bond Rating Agency meets or exceeds the minimum acceptable long term corporate debt (credit) rating.

~~f. At all times the value of the irrevocable letter of credit 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.~~

gh. Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph



**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

6.1.7 Q.4.d., the amount of the irrevocable letter of credit pursuant to this paragraph 6.1.7 Q.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

hi. Any financial assurance required per the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.7 R. shall count towards the total financial assurance required for compliance with paragraph 6.1.1A.5.

ij. Unless the Governing Body approves otherwise, the Champaign County State’s Attorney’s Office shall review and approve every Letter of Credit prior to acceptance by the Zoning Administrator.

~~(5) In addition to the conditions listed in subparagraph 6.1.1A.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.~~

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

~~h. The COUNTY discovers any material misstatement of fact of 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 paragraph 6.1.5D, or failed to submit it to the COUNTY within 12 consecutive months of receiving a Zoning Use Permit regardless of the efforts of the Applicant to obtain such certification.~~

- (6) The Zoning Administrator may, but is not required to, deem the PV SOLAR FARM abandoned, ~~or the standards set forth in Section 6.1.7 M.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 Board and the signed and executed irrevocable letter of credit and evidence of the escrow account must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.

R. Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

- (1) The Applicant shall enter into an Agricultural Impact Mitigation Agreement 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 Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (3) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the SPECIAL USE Permit.
- (4) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

S. Complaint Hotline

- (1) Prior to the commencement of construction on the PV SOLAR FARM and during the entire term of the COUNTY Board SPECIAL USE Permit and

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

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 recordings shall be saved for transcription for a minimum of two years.
- (6) A copy of the telephone number hotline log 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.

**T. Standard Conditions for Expiration of PV SOLAR FARM COUNTY Board SPECIAL USE Permit**

A PV SOLAR FARM COUNTY Board SPECIAL USE Permit designation shall expire in 10 years if no Zoning Use Permit is granted.

**U. Application Requirements**

- (1) In addition to all other information required on the SPECIAL USE Permit application and required by Section 9.1.11 A.2., the application shall contain or be accompanied by the following information:
  - a. A PV SOLAR FARM Project Summary, including, to the extent available:
    - (a) A general description of the project, including its approximate DC and AC generating capacity; the maximum number and type of solar devices, and the potential equipment manufacturer(s).
    - (b) The specific proposed location of the PV SOLAR FARM including all tax parcels on which the PV SOLAR FARM will be constructed.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- (c) The specific proposed location of all tax parcels required to be included in the PV SOLAR FARM COUNTY Board SPECIAL USE Permit.
  - (d) A description of the Applicant, Owner and Operator, including their respective business structures.
- b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) for the PV SOLAR FARM SPECIAL USE Permit.
- c. A site plan for the PV SOLAR FARM indicating the following:
  - (a) The approximate planned location of al PV SOLAR FARM STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, access driveways, solar devices, electrical inverter(s), electrical transformer(s), cabling, switching station, electrical cabling from the PV SOLAR FARM to the Substation(s), ancillary equipment, screening and fencing, third party transmission lines, meteorological station, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.
  - (b) The site plan shall clearly indicate the area of the proposed PV SOLAR FARM SPECIAL USE Permit.
  - (c) The location of all below-ground wiring.
  - (d) The location, height, and appearance of all above-ground wiring and wiring structures.
  - (e) The separation of all PV SOLAR FARM structures from adjacent DWELLINGS and/or PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit. Greater separation and somewhat different locations may be provided in the approved site plan for the Zoning Use Permit provided that the greater separation does not increase the noise impacts and/or glare that were approved in the PV SOLAR FARM SPECIAL USE Permit. PV SOLAR FARM structures include substations, third party transmission lines, maintenance and management facilities, or other significant structures.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

- d. All other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
  - e. 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 as required by Section 6.1.7 B.(2)a.(b).
  - f. A municipal resolution regarding the PV SOLAR FARM by any municipality located within one-and-one-half miles of the PV SOLAR FARM must be submitted to the Zoning Administrator prior to the consideration of the PV SOLAR FARM SPECIAL USE Permit by the Champaign COUNTY Board or, in the absence of such a resolution, 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 Environment and Land Use Committee and the COUNTY Board as required by Section 6.1.7 B.(2)a.(c).
  - g. Documentation of an executed interconnection agreement with the appropriate electric utility shall be provided prior to issuance of a Zoning Compliance Certificate to authorize operation of the PV SOLAR FARM as required by Section 6.1.7 B.(3)b.
- (2) The Applicant shall notify the COUNTY of any changes to the information provided above that occurs while the SPECIAL USE Permit application is pending.
  - (3) The Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Special Use Permit Application.
- V. The approval of a PV SOLAR FARM shall not be conditioned on a property value guarantee and shall not require a facility owner to pay into a neighboring property devaluation escrow account. This is a statutory requirement by 55 ILCS 5/5-12020 and shall not be changed.
- W. Deadline for Start of Public Hearing and Governing Body Determination
- (1) A public hearing for a PV SOLAR FARM shall begin within 45 days of filing a complete SPECIAL USE Permit application. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

**EXHIBIT A: PROPOSED AMENDMENT DATED 05/03/23 – LESS STRICT INTERPRETATION**

(2).....A decision on the SPECIAL USE Permit shall be made within 30 days after the conclusion of the public hearing. This requirement is imposed by Public Act 102-1123 and the number of days shall not be increased or eliminated.

**11. ....Add new Section 9.1.11. C.5. as follows:**

5. ....Statutory requirements in Section 6.1.5 or Section 6.1.7. shall not be construed to be inadequate in any way and shall not be the basis for negative Findings of Fact for any WIND FARM or PV SOLAR FARM.

**12. ....Add new Section 9.1.11 D.9. as follows:**

9. ....No WIND FARM or PV SOLAR FARM approval shall include any special condition or waiver that changes any statutory requirement in Section 6.1.5 or Section 6.1.7.

**Attachment D: IACBM Sample Wind Ordinance**

can be found online at: [http://www.co.champaign.il.us/CountyBoard/meetings\\_ZBA.php](http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php)

**Attachment E: IACBM Sample Solar Ordinance**

can be found online at: [http://www.co.champaign.il.us/CountyBoard/meetings\\_ZBA.php](http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php)



***DRAFT REVISED 05/11/23***

**086-AT-23**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

---

Final Determination: ***{RECOMMEND ENACTMENT/RECOMMEND DENIAL}***

Date: ***{~~March 30~~May 11, 2023}***

Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows in order to ensure compliance with Public Act 102-1123:**

- 1. Add the following definitions to Section 3.0 Definitions: FACILITY OWNER, NON-PARTICIPATING PROPERTY, OCCUPIED COMMUNITY BUILDING, PARTICIPATING PROPERTY.**
- 2. Revise the following definitions in Section 3.0 Definitions: PARTICIPATING DWELLING, NON-PARTICIPATING DWELLING, COMMUNITY PV SOLAR FARM**
- 3. Revise Section 6.1.4 WIND FARM SPECIAL USE PERMIT to establish an effective date for regulating previously authorized WIND FARMS.**
- 4. Add new Section 6.1.5 PROPOSED WIND FARM SPECIAL USE PERMIT to establish regulations applicable after an effective date for proposed WIND FARMS, including but not limited to:**
  - a. Establish a separation from each WIND FARM TOWER of 1.1 times the maximum blade tip height to the nearest PARTICIPATING DWELLING, to the center point of a public street right-of-way, to the nearest non-participating property line, and to third-party transmission lines.**
  - b. Establish a separation from each WIND FARM TOWER of 2.1 times the maximum blade tip height to the nearest NON-PARTICIPATING DWELLING or OCCUPIED COMMUNITY BUILDING, and to the nearest point on the property line of fish and wildlife areas and Illinois Nature Preserve Commission protected lands.**
  - c. Establish that the total WIND FARM TOWER HEIGHT (measured to the tip of the highest rotor blade) must receive a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.**

- d. **Establish that the financial assurance for WIND FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement but will be required to be an Escrow Account.**
  - e. **Add other new standard conditions consistent with Public Act 102-1123.**
5. **Renumber existing Section 6.1.5 to new Section 6.1.6 PHOTOVOLTAIC (PV) SOLAR FARM and establish an effective date for regulating previously authorized PHOTOVOLTAIC (PV) SOLAR FARMS.**
6. **Add new Section 6.1.7 PROPOSED PHOTOVOLTAIC (PV) SOLAR FARM to establish regulations applicable after an effective date for proposed PHOTOVOLTAIC (PV) SOLAR FARMS, including but not limited to:**
- a. **Establish a separation of 50 feet between the PV SOLAR FARM fencing and the street centerline.**
  - b. **Establish a separation of 50 feet between the nearest edge of any component of the PV SOLAR FARM and the nearest point on the property line of the non-participating property.**
  - c. **Establish a separation of 150 feet from the nearest edge of any component of the PV SOLAR FARM and the nearest point on the outside wall of an OCCUPIED COMMUNITY BUILDING or NON-PARTICIPATING DWELLING.**
  - d. **Establish that the financial assurance for PV SOLAR FARMS will be based on the requirements in the Agricultural Impact Mitigation Agreement.**
  - e. **Add other new standard conditions consistent with Public Act 102-1123.**

**CONTENTS**

**Finding of Fact ..... 2 - 13**

**Summary Finding of Fact ..... 14**

**Documents of Record..... 15**

**Final Determination..... 16**

**Proposed Amendment ..... 16**

**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 30, 2023** and **May 11, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to revise requirements for WIND FARMS and PV SOLAR FARMS in the Zoning Ordinance to comply with Public Act 102-1123.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases.

**SUMMARY OF THE PROPOSED AMENDMENT**

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

**GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES**

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
  - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
 

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:...”
  - B. The LRMP defines Goals, Objectives, and Policies as follows:
    - (1) Goal: an ideal future condition to which the community aspires
    - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
    - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
  - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

**REGARDING LRMP GOALS**

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:

**Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.**

---

Goal 1 has 4 objectives and 4 policies. The proposed amendment ***WILL NOT IMPEDE*** the achievement of Goal 1.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

**Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.**

Goal 2 has two objectives and three policies. The proposed amendment ***WILL NOT IMPEDE*** the achievement of Goal 2.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

**Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.**

Goal 3 has three objectives and no policies. Objective 3.1 is most relevant to the proposed text amendment. The proposed amendment will ***HELP ACHIEVE*** Goal 3 as follows:

- A. Objective 3.1 states, “Champaign County will seek to ensure that it maintains comparable tax rates and fees, and a favorable business climate relative to similar counties.”

The proposed amendment will ***HELP ACHIEVE*** Objective 3.1 as follows:

- (1) The proposed text amendment will allow further development of PV SOLAR FARMS, WIND FARMS and WIND TOWERS, which will allow newer technologies to improve Champaign County’s business climate.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

**Champaign County will protect the long-term viability of agriculture in Champaign County and its land resource base.**

Goal 4 has 9 objectives and 22 policies. Objectives 4.4, 4.5, 4.7, 4.8 and their policies do not appear to be relevant to the proposed text amendment. The proposed amendment will ***HELP ACHIEVE*** Goal 4 for the following reasons:

- A. Objective 4.1 states as follows: “**Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on *best prime farmland*.**”

The proposed amendment will ***HELP ACHIEVE*** Objective 4.1 for the following reasons:

- (1) The proposed amendment ***WILL NOT IMPEDE*** the achievement of Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, 4.1.8, and 4.1.9.
- (2) Policy 4.1.1 states: “**Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.**”

The proposed amendment will **HELP ACHIEVE** Policy 4.1.1 for the following reasons:

- a. The standard conditions for WIND FARM TOWERS and PV SOLAR FARMS will ensure the following:
  - (a) The proposed amendment requires minimum separations between any WIND FARM TOWERS, PV SOLAR FARMS and existing adjacent use to minimize issues of land use compatibility.
  - (b) No WIND FARM TOWER or PV SOLAR FARM shall interfere with agricultural operations (see Objective 4.2).
  - (c) No WIND FARM TOWER or PV SOLAR FARM shall be located at any location that is not well-suited for that WIND FARM TOWER or PV SOLAR FARM (see Objective 4.3).
  - (d) The proposed amendment establishes standard conditions to ensure that the allowable noise level created by a WIND FARM TOWER or PV SOLAR FARM is consistent with the Illinois Pollution Control Board regulations that are the same for all rural land uses.
  - (e) The proposed amendment requires WIND FARMS and PV SOLAR FARMS to have an approved Decommissioning and Site Reclamation Plan to ensure that funds will be available to remove a WIND FARM or PV SOLAR FARM if the WIND FARM or PV SOLAR FARM ever becomes non-functional.
  
- (3) Policy 4.1.6 states: **“Provided that the use, design, site and location are consistent with County policies regarding:**
  - i. Suitability of the site for the proposed use;**
  - ii. Adequacy of infrastructure and public services for the proposed use;**
  - iii. Minimizing conflict with agriculture;**
  - iv. Minimizing the conversion of farmland; and**
  - v. Minimizing the disturbance of natural areas; then**
  - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
  - b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
  - c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.1.6 for the following reasons:

- 
- a. The ZBA has recommended that the proposed amendment will **HELP ACHIEVE** Objective 4.3 regarding location at a suitable site and adequacy of infrastructure and public services.
  - b. The ZBA has recommended that the proposed amendment will **HELP ACHIEVE** Objective 4.2 regarding no interference with agricultural operations.
  - c. The proposed amendment will **HELP ACHIEVE** the County's policies regarding minimizing the conversion of best prime farmland as follows:
    - (a) The only policy regarding conversion of best prime farmland by non-residential discretionary development is Policy 4.1.6b., which states, "On best prime farmland the County may authorize non-residential development." Policy 4.1.6.b. has no limit on the conversion of best prime farmland for non-residential discretionary development and is merely a statement of fact and therefore, the proposed amendment does help achieve Policy 4.1.6b.
- B. Objective 4.2 is entitled "Development Conflicts with Agricultural Operations" and states, "Champaign County will require that each *discretionary review* development will not interfere with agricultural operations."

The proposed amendment will **HELP ACHIEVE** Objective 4.2 because of the following:

- (1) **Policy 4.2.1 states, "The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a *rural* area than in an urban area."**

The proposed amendment will **HELP ACHIEVE** Policy 4.2.1 for the following reasons:

- a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- b. WIND FARM TOWERS and PV SOLAR FARM **ARE** services better provided in a rural area as evidenced by the following:
  - (a) WIND FARM TOWERS and PV SOLAR FARMS do not require access to most utilities.
  - (b) WIND FARM TOWERS and PV SOLAR FARMS are not compatible with principal structures within the minimum separation distance established by the Zoning Ordinance.
- c. Even though WIND FARM TOWERS and PV SOLAR FARMS do not serve the surrounding agricultural uses directly, the landowner receives payment from the WIND FARM TOWER and PV SOLAR FARM operator in excess of the value of a crop from that land.

- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a) **is a type that does not negatively affect agricultural activities; or**
  - b) **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
  - c) **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural roads*, or other agriculture-related infrastructure.”**

The proposed amendment will ***HELP ACHIEVE*** Policy 4.2.2 for the following reasons:

- a. The proposed amendment requires that an applicant shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture, including the following:
    - (a) 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 Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
    - (b) All requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture shall become requirements of the County Board SPECIAL USE Permit.
    - (c) Champaign County shall have the right to enforce all requirements of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- (3) **Policy 4.2.3 states, “The County will require that each proposed discretionary development explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”**

The proposed amendment will ***HELP ACHIEVE*** Policy 4.2.3 for the following reason:

- a. WIND FARMS and PV SOLAR FARMS both require Agricultural Impact Mitigation Agreements with the Illinois Department of Agriculture.
- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary.”**

The proposed amendment will ***HELP ACHIEVE*** Policy 4.2.4 for the following reason:

- a. The proposed amendment requires minimum separations from adjacent uses and structures as a standard condition.
- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

The proposed amendment will **HELP ACHIEVE** Objective 4.3 because of the following:

- (1) **Policy 4.3.1 states “On other than best prime farmland, the County may authorize a discretionary review development provided that the site with proposed improvements is suited overall for the proposed land use.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.1 for the following reasons:

- a. See the discussion under Policy 4.3.2 regarding achievement of Policy 4.3.2. If the proposed amendment achieves Policy 4.3.2, it will also achieve Policy 4.3.1.

- (2) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.2 for the following reasons:

- a. Because so much of Champaign County consists of best prime farmland soils, any development of a WIND FARM or PV SOLAR FARM is likely to be on best prime farmland.
- b. Standard conditions for WIND FARMS and PV SOLAR FARMS will ensure that they shall not be approved on any location that is not well-suited as follows:
- (a) The proposed amendment identifies areas where WIND FARMS and PV SOLAR FARMS should not be located.
- (b) The proposed amendment requires and Endangered Species Consultation with the IDNR and IDNR recommendations will be included in the Agency Action Report submitted with the Special Use Permit Application.
- (c) The proposed amendment requires consultation with the State Historic Preservation Officer of IDNR and IDNR recommendations will be included in the Agency Action Report submitted with the Special Use Permit Application.
- (d) The proposed amendment requires consultation with the United States Fish and Wildlife Service for fish and wildlife impacts.

- (3) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed amendment will **NOT IMPEDE** Policy 4.3.3.

- (4) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**



The proposed amendment will **HELP ACHIEVE** Policy 4.3.4 for the following reasons:

- a. The proposed amendment requires a Roadway Upgrade and Maintenance Agreement with the relevant highway authority.
- (5) **Policy 4.3.5 states, “On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a. **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
  - b. **the use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed amendment will **HELP ACHIEVE** Policy 4.3.5 for the following reasons:

- a. As reviewed for Policy 4.2.1 in this Finding of Fact:
  - (a) WIND FARMS and PV SOLAR FARMS **ARE** services better provided and therefore **ARE** appropriate in a rural area.
- b. Regarding location of a WIND FARM or PV SOLAR FARM on a less productive site, the following is reviewed under Policy 4.3.2 in this Finding of Fact:
  - (a) It is unlikely that a WIND FARM or PV SOLAR FARM in Champaign County will be located on less than best prime farmland.

10. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

**Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.**

Goal 5 has 3 objectives and 15 policies. The proposed amendment is **NOT RELEVANT** to Goal 5 in general.

11. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

**Champaign County will ensure protection of the public health and public safety in land resource management decisions.**

Goal 6 has 4 objectives and 7 policies. Objectives 6.2, 6.3, and 6.4 are not relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 6 for the following reasons:

- A. Objective 6.1 states, “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**” Objective 6.1 has four subsidiary policies; policy 6.1.3 is the only relevant policy, and it states the following:
  - (1) Policy 6.1.3 states, “**The County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible.**”

The proposed amendment will **HELP ACHIEVE** Objective 6.1.3 as follows:

- a. Section 6.1.2 A. of the Zoning Ordinance requires that any SPECIAL USE Permit with exterior lighting shall be required to minimize glare onto adjacent properties by the use of full-cutoff type lighting fixtures with maximum lamp wattages.
- b. The proposed amendment requires that landscaping, awnings, or fencing shall be provided for any part of a WIND FARM where shadow flicker exceeds the standards established in the Zoning Ordinance.

12. LRMP Goal 7 is entitled “Transportation” and states as follows:

**Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.**

Goal 7 has 2 objectives and 7 policies. The proposed amendment is **NOT RELEVANT** to Goal 7 in general.

13. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

**Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.**

Goal 8 has 9 objectives and 36 policies. The proposed amendment is **NOT RELEVANT** to Goal 8 in general.

14. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

**Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.**

Goal 9 has 5 objectives and 5 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 9.

15. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

**Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.**

Goal 10 has 1 objective and 1 policy. The proposed amendment is **NOT RELEVANT** to Goal 10 in general.

**REGARDING THE PURPOSE OF THE ZONING ORDINANCE**

16. The proposed amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is consistent with this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is consistent with this purpose.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public STREETS.

The proposed amendment is not directly related to this purpose.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed amendment is not directly related to this purpose.

- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is consistent with this purpose.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected.

The proposed amendment is consistent with this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of LOT areas, and regulating and determining the area of open spaces within and surrounding BUILDINGS and STRUCTURES.

The proposed amendment is not directly related to this purpose.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES.

The proposed amendment is consistent with this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is not directly related to this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform.

The proposed amendment is consistent with this purpose.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit USES, BUILDINGS, or STRUCTURES incompatible with the character of such DISTRICTS.

The proposed amendment is consistent with this purpose.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is not directly related to this purpose.

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban USES.

The proposed amendment is consistent with this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is consistent with this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is consistent with this purpose.

17. The proposed text amendment **WILL** improve the text of the Zoning Ordinance because it **WILL** provide:
- A. A classification which allows PV SOLAR FARMS and WIND FARMS to be developed while establishing minimum requirements that ensure the purposes of the Zoning Ordinance will be met.
  - B. A means to regulate an activity for which there is demonstrated demand.

---

## SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 30, 2023 and May 11, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance text amendment ***IS NECESSARY TO ACHIEVE*** the Land Resource Management Plan because:
  - A. The proposed Zoning Ordinance text amendment will ***HELP ACHIEVE*** LRMP Goals 3, 4 and 6.
  - B. The proposed Zoning Ordinance text amendment ***WILL NOT IMPEDE*** the achievement of LRMP Goals 1, 2 and 9.
  - C. The proposed Zoning Ordinance text amendment is ***NOT RELEVANT*** to LRMP Goals 5, 7, 8 and 10.
2. The proposed text amendment ***WILL*** improve the Zoning Ordinance because it will:
  - A. ***HELP ACHIEVE*** the purpose of the Zoning Ordinance (see Item 16).
  - B. ***IMPROVE*** the text of the Zoning Ordinance (see Item 17).

**DOCUMENTS OF RECORD**

1. Legal advertisement for Case 086-AT-23
2. Preliminary Memorandum for Case 086-AT-23, with attachments:
  - A Legal advertisement
  - B ELUC Memorandum dated February 27, 2023
    - Exhibit A: Proposed Amendment dated February 27, 2023
    - Exhibit B: Public Act 102-1123 excerpt
  - C Redline comparison of Champaign County Zoning Ordinance Section 6.1.1. A.
  - D Redline comparison of Champaign County wind farm ordinance section
  - E Redline comparison of Champaign County solar farm ordinance section
  - F Agricultural Impact Mitigation Agreement for Commercial Wind Energy Facilities by the Illinois Department of Agriculture
  - G Agricultural Impact Mitigation Agreement for Commercial Solar Energy Facilities by the Illinois Department of Agriculture
  - H Land Resource Management Plan (LRMP) Goals & Objectives  
*(available on ZBA meetings website)*
  - I Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 086-AT-23 dated March 30, 2023, with attachment:
    - Exhibit A: Proposed Amendment dated March 30, 2023
3. Village of Philo Letter of Protest received March 28, 2023
4. Village of St. Joseph Letter of Protest received March 30, 2023
5. Village of Mahomet Letter of Protest received March 30, 2023
6. Supplemental Memorandum #1 for Case 086-AT-23, with attachments:
  - A Legal advertisement
  - B Proposed amendment dated May 3, 2023 – Strict interpretation
  - C Proposed amendment dated May 3, 2023 – Less strict interpretation
  - D Sample Wind Ordinance by the Illinois Association of County Board Members  
*(on ZBA meetings website)*
  - E Sample Solar Ordinance by the Illinois Association of County Board Members  
*(on ZBA meetings website)*
  - F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 086-AT-23 dated May 11, 2023

**FINAL DETERMINATION**

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County recommends that:

The Zoning Ordinance Amendment requested in **Case 086-AT-23** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

ATTEST:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date