OGLE COUNTY COMMERCIAL SOLAR ENERGY FACILITY (SEF) SITING AND OPERATING ORDINANCE

I. PURPOSE

Ogle County outlines established guidelines for the Siting and Operating of Commercial SEF (SEFs) to ensure sustainable economic development while ensuring the protection of County Citizenry and Property Owners. The Ordinance serves to highlight requirements and expectations surrounding the application, building, and operation of Commercial SEF (SEFs) to meet all required federal, state and local laws while outlining essential safeguards for day-to-day operation and dismantling of facility. This Ordinance remains under purview and oversight of the Ogle County Planning and Zoning Administrator (*County Zoning Administrator*), Ogle County Engineer (*County Engineer*), Ogle County Assessment, Planning and Zoning Committee (*County Zoning Committee*), and Ogle County Board (*County Board*).

II. DEFINITIONS

A. "Applicant" means the entity who submits to the County an application for the siting and operation of any Commercial SEF or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial SEF Permittee (as defined herein).

B. “Commercial Operation Date” means the calendar date on which the Commercial SEF produces power for commercial sale, not including test power.

C. “Commercial Solar Energy Facility” (SEF) means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property.

D. "Commercial Solar Energy Zoning Certificate (Building Permit)" means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial SEF, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial SEF. A Commercial Solar Energy Zoning Certificate (Building Permit) shall be issued by the County after a Commercial SEF has obtained a Special Use Permit from the County Board and the County Zoning Administrator determines that all conditions, if any and all conditions, have been satisfied that are imposed by the Special Use Permit. The Commercial Solar Energy Zoning Certificate (Building Permit) shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial SEF to the County prior to commencement of construction of the Commercial SEF. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Commercial SEF.

E. “Commercial SEF Permittee" means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Commercial SEF or Substation. All references to a Commercial SEF Permittee in this Ordinance shall include a Commercial SEF Permittee's successors-in-interest and assigns.

F. "Financial Assurance" or "Financial Security" or "Decommission Security" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

G. "Notice to Proceed" means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial SEF and identifying the date on which the construction activities are scheduled to commence.

H. "Nonparticipating property" means real property that is not a participating property. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial SEF is filed with the County.

I. "Occupied community building" means 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 SEF is filed with the County: a school, place of worship, day care facility, public library, or community center.

J. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial SEF, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in the Ordinance shall include Operator's successors-in- interest and assigns.

K. "Owner" means the person or entity or entities with an equity interest in a Commercial SEF, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial SEF (unless the property owner has an equity interest in a Commercial SEF); or (ii) any person holding a security interest in a Commercial SEF solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial SEF at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

L. "Participating property" means 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 SEF or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial SEF or supporting facilities.

M. "Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial SEF is filed with the County.

N. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in any state in the United States. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.

O. "Protected lands" means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

P. "Public Conservation Lands" means land owned in fee title by County, state or federal agencies and managed specifically for conservation purposes, including but not limited to County, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildliferefuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

P. "Special Use Permit" means a permit approved by the County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the County Board.

Q. "Substation" means the apparatus that collects and connects the electrical collection system of the Commercial SEF and increases the voltage for connection with the utility's transmission lines.

R. “Supporting Facilities” means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial SEF.

III. APPLICABILITY

A. This Ordinance governs the siting of Commercial SEF and Substations that generate electricity to be sold to wholesale or retail markets.

IV. PROHIBITION

A. No Commercial SEF or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the County, unless prior siting approval has been obtained for each individual Commercial SEF or for a group of Commercial SEF under a joint siting application pursuant to this Ordinance.

V. SPECIAL USE PERMIT APPLICATION

A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the County.

B. The Special Use Permit application shall contain or be accompanied by the following information:

1. A Commercial SEF Summary, including, to the extent available:

a. A general description of the project, including:
   i. its approximate overall name plate generating capacity
   ii. the potential equipment manufacturer(s)
   iii. the type(s) of solar panels, cells and module configuration
   iv. the number of solar panels, cells and/or modules
   v. the maximum height of the solar panels at full tilt
   vi. the number of Inverters and Transformers
   vii. the number of Substations and/or Grid Interconnections required
   viii. the general location of the project
   ix. the approved project site plan, project phasing plan and project construction timeline plan

b. A full legal description of the Applicant, Owner and Operator, including their respective business structure, business ventures, and operating history.

2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property.

3. A detailed site plan for the Commercial SEF showing the planned location of solar panels, including legal descriptions for each applicable site, Participating and Non-participating Residences, Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, electrical cabling to the Substation(s), ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed Commercial SEF, and the layout of all structures within the geographical boundaries of any applicable setback.

4. A proposed and detailed Decommissioning Plan for the Commercial SEF.

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

6. Provide results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (Eco CAT) or a comparable successor tool and adhere to the recommendations provided by the Illinois Department of Natural Resources in an Eco CAT natural resource review report under 17 Ill. Admin. Code Part 1075.

   a. A commercial solar energy facility owner must Demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Natural Preserve Commission; or

   b. Consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture.

8. The topographic map shall include the Commercial SEF site and the surrounding area.

9. Any other information normally required by the County as part of its permitting requirements for siting buildings or other structures.

10. Waivers from the setback requirements executed by the occupied community building owners and/or the non-participating property owners bearing a file stamp from the County Recorder's Office confirming that the waiver was recorded against title to the affected real property.

11. Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.

12. Results of any 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's solar wildlife guidelines.

13. Information demonstrating that the Commercial SEF will avoid protected lands.

14. Any other information requested by the County or the County consultants that is necessary to evaluate the siting application and operation of the Commercial SEF and to demonstrate that the Commercial SEF meets each of the regulations in this Ordinance, including the Special Use Permit standards set forth below.

C. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the County.

D. The Applicant shall submit twelve (12) copies of the Special Use Permit application to the County, and at least one (1) copy in electronic format.

E. Upon completion of application and all required documents provide Special Use Permit Application Fee (See Section XI, A of this Ordinance).

Note:
The SEF Special Use Application is not considered complete until all requirements and documentation have been received by the County Zoning Administrator. Once all documentation is received the Special Use Application Fee will be collected and the process for scheduling public meeting with Zoning Board of Appeals will begin.

VI. DESIGN AND INSTALLATION

A Design Safety Certification

1. Commercial SEF 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"), or an equivalent third party. All solar panels, cells and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance by the County Board.

2. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the Commercial SEF Zoning Certificate (Building Permit) application process that the design of the Commercial SEF is within accepted professional standards, given local soil, subsurface and climate conditions.

3. Any physical modification to the Commercial SEF that alters the mechanical load, mechanical load path, or major electrical components including electrical output capacity will require shall require re-certification (See Section VII, A.2 of this Ordinance). If Commercial SEF or property owner fail to comply Special Use will be cancelled.

B. Electrical Components

All electrical components of the Commercial SEF shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

C. Height

1. No component of a solar panel, cell or modules may exceed twenty (20) feet in height above the ground at full tilt.

D. Aesthetics and Lighting

1. Vegetative Screening (providing screening and wildlife habitat for Commercial SEF):
   a. A two (2) Tier vegetative screen shall be provided to encircle all parts of the Commercial SEF.

   b. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sits. The first tier vegetative screen tier shall by planted fifteen (15) Feet from fence. The second tier vegetative screen shall be planted twenty-seven (27) feet from fence alternating from first tier.

   c. The two (2) tier vegetative screening shall include at a minimum Arborvitae giant variety selected for appropriate hardiness zone and be at a minimum of six (6) foot height planted on twelve (12) foot centers for first tier row. The second tier row shall be planted twelve (12) feet in front of 1st tier on offsetting centers and spaced twelve (12) feet apart.

      Note:
      The land owner and/or constructor may select alternative tree species of conifer/pine/spruce for 1st tier and use another native hardwood (Oak/Hackberry/Black Walnut) for second outer tier from fence line. Minimum heights shall be eight (8) feet and be planted as described above.

      One tier vegetative screen can be allowed only if population density for proposed SEF is less than 10 homes per quarter mile from property line of SEF to property line of non-participating residence and approved by the County Zoning Committee and the County Board.

2. Solar Field Ground Cover:
   a. Areas surrounding solar panels shall be planted and maintained with Illinois indigenous pollinator friendly ground cover.
   b. Ground cover should incorporate the Integrated Monarch Monitoring Program (IMMP), the MJV-administered national program that collects milkweed, flowering plant, and monarch use data from a variety of land-cover types and regions.
   c. The Solar Field Ground Cover shall be detailed and approved by the County Zoning

Committee and the County Board.

d. At least every thirty-six months, the County shall hire a qualified wildlife expert to conduct a study to determine whether the commercial SEF is in compliance with the Illinois Department of Natural Resources' recommendations in the form of an IDNA natural resource review report. The cost to conduct such testing shall be borne by the Facility Owner. If the Facility Owner does not pay within forty-five (45) days of being provided an invoice for these costs, its special use permit shall be immediately revoked.

e. The commercial SEF shall at all times comply with and adhere to the recommendations provided by the Illinois State Historic Preservation Office. If at any time throughout the life of the commercial solar energy facility project, the project is found to not be in compliance with the IDNR recommendations or the Illinois State Historic Preservation Office, the applicant or facility owner will immediately shut down the commercial solar energy facility to ensure compliance with these recommendations until a solution to the violations is found and approved by the County Zoning Committee.

f. All County Commercial SEF must obtain and maintain the designation of being a Pollinator Friendly Solar Site.
   i. Pollinator-friendly habitat must be designed, installed, and maintained under and around the solar panels in all areas within the perimeter fencing.
   ii. Pollinator-friendly habitat will be installed as a buffer outside of the perimeter fencing of the commercial solar energy facility.
   iii. Buffer width will be a minimum of 36' measured from the perimeter fencing.
   iv. Pollinator-friendly habitat will be installed on properly prepared soils, and Facility Owners will employ Integrated Vegetation Management and/or Conservation Grazing best practices to maintain and maximize operational savings.
   v. Pollinator friendly habitat will be developed, implemented, and maintained in accordance with IDNR's Solar Site Pollinator Scorecard Guidelines and will consist of only native grasses, forbs, and legume species. Native seed mixes must be approved by the County Soil and Water office prior to implementation.
   vi. The Facility Owner must complete the Illinois Planned Habitat on Solar Sites Scorecard with a minimum score of 100 to achieve preliminary recognition as a "Pollinator Friendly Solar Site". This preliminary recognition is good for 3 years and must be recertified at least once every 5 years thereafter. The county shall be provided documentation within the time periods set forth herein showing compliance.
   vii. Failure to obtain or maintain recognition as a Pollinator Friendly Solar Site with a minimum score of 100 will result in revocation of the Special Use Permit by the County.
   viii. Noxious weeds will be controlled in accordance with all state and local laws, regulations and ordinances.

   Note:
   A Commercial SEF may choose to select Monarch friendly habitat ground cover if allowed by State and approved by land owner. The alternative selection of Monarch friendly habitat ground cover may necessitate other long term requirements from State including eventual removal restrictions, however the County remains open to possibility.

3. Lighting:
   a. No specific lighting is required except to meet applicable OSHA safety requirement for operating and maintaining facility.
   b. Lighting should not be in use if there is no occupancy at facility.
   c. If lighting is provided at the Commercial SEF, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.

4. Intra-project Power and Communication Lines: All power lines used to collect power and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

E. Fencing

1. Fencing shall meet applicable guidelines including National Electric Safety Code requirements, be grounding at minimum requirement and include all applicable safety/danger precaution signage.
    a. "Fences shall be designed to limit touch, step, and transferred voltages in accordance with industry practices."
    b. While a proper engineering study may be used to determine the extent of required grounding, it cannot negate the NESC requirement to ground subject perimeter fence.

2. A fence of at least eight (8) feet with barbwire and not more than twenty-five (25) feet in height shall enclose and secure the Commercial SEF.

3. Fencing must be commercial heavy duty metal mesh construction to meet all security requirement to keep animals and people out of facility.

    Note:
    Fence material and installation must conform to the County standards SF 001 and meet minimum criteria delineated below.

    a. Chain Link Fencing must be not less than "nine-gauge" (9) galvanized construction.
    b. Fence construction should be a distance span of no more than ten (10) feet between posts.
    c. All piping material to include posts and top rail should be no less than SS40 gauge galvanized pipe.
    d. All Line posts must be no less than two (2) inch Diameter.
    e. All end posts and/or gate posts must be no less than two and a half (2.5) inches diameter.
    f. All top rail pipes must be no less (1-5/8) inches diameter.
    g. All Line posts must be driven into ground no less than Four (4) feet into ground without concrete.
    h. All line posts must be installed in ground with concrete of a distance no less than two (2) feet.
    i. All fence gate posts must be installed in ground with concrete of a distance of no less than three (3) feet.
    j. Chain fence height should be no less than seven (7) feet with one (1) foot high barb wire (V-Barb Arm) arm installed for a completed height of eight (8) feet height including gates.
    k. Barb wire should have no less than three (3) strains mounted on a forty-five (45) degree angle facing to the outward side of fence.
    l. Optional nylon fabric screening material requires a minimal specification for 85% nylon site screen. Using screen would require increasing posts to two and a half (2.5) inch diameter post and three (3) inch diameter end post.

4. Fencing plan shall be approved by the County Zoning and Planning Committee and the County Board.

5. Appendix A provides drawing detail of the County Fencing Standard for reference.

F. Warnings

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

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

3. Signage on fencing and property line should denote

G. Setback Requirements

1. The Commercial SEF shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:
   a. Occupied Community Buildings and Dwellings on Nonparticipating Properties: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
   b. Boundary Lines of Participating Property: None.
   c. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the nonparticipating property.
   d. Public Road Rights-of-Way: fifty (50) feet the nearest edge of the public road right-of-way.

2. The setback requirements for Nonparticipating properties may be waived by the written consent of the owner(s) of each affected Nonparticipating property.

3. The Applicant does not need to obtain a variance from the County upon waiver by the property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded with the County Recorder's Office.

H. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

I. Use of Public Roads

1. An Applicant proposing to use any County, municipality, township or village road(s), for the purpose of transporting Commercial SEF or Substation parts and/or equipment for construction, operation, or maintenance of the Commercial SEF or Substation(s), shall:

   a. Identify all such public roads; and

   b. Obtain applicable weight and size permits from relevant government agencies prior to construction.

2. To the extent an Applicant must obtain a weight or size permit from the County, municipality, township or village, the Applicant shall:

a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and

b. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the Community SEF or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit.

c. Enter into a road use agreement with the County and each affected Road District not less than thirty (30) days prior to the issuance of the building permits for the Commercial SEF project that includes the following provisions, at a minimum:
   i. Project layout map.
   ii. Transportation impact analysis (TIA) that details the expected construction routes and the ESAL count per roadway segment. Core samples, or non-destructive testing methods, as approved by the County Engineer, shall be used to determine the base and surface thicknesses of each public roadway used. In addition, all bridges and culvers on the construction routes shall be identified and evaluated for structural adequacy. Adequate exhibits shall be included so that the full impact to the public roadways within the project footprint can be determined.
   iii. Pre-construction plans.
   iv. Project traffic map.
   v. Project scope of advance repairs providing for roadway upgrades that will facilitate development.
   vi. Post-construction repairs requirements for repairing damages to the roadway base, surface and appurtenances, in addition to providing for post construction roadway surface upgrades vii.
   vii. Governing practices regarding utility installations on or near the rights of way.
   viii. Insurance.
   ix. Financial Security in forms and amounts acceptable to the County.

   Note:
   The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct Commercial SEF and the reasonable cost of repairing roads used by the facility owner during construction of the Community SEF so that those roads are in a condition that is safe for the driving public after the completion of the Commercial SEF construction. Roadways improved in preparation for and during the construction of the Community SEF shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

d. The agreed to Road Use Agreement (RUA) is only valid for the initial construction of the

Commercial SEF project covered by the initial Special Use Permit. A new RUA may be required prior to any significant work on the project, including decommissioning.

3. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County before being made and shall also be subject to inspection and acceptance by the County after such repairs and improvements are completed. The County's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the County Board prior to approval of any Commercial SEF Zoning Certificate (Building Permit) applications related to the construction of the proposed Commercial SEF.

J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the Commercial SEF and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its Commercial SEF Zoning Certificate (Building Permit). The Applicant shall follow the guidelines for Conservation Practices Impact Mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency). Also, the Applicant shall submit grading plans for the proposed Substations for review and comment by the County Soil and Water Conservation District prior to the issuance of any Commercial SEF Zoning Certificate (Building Permit) for the construction of said substations.

K. Noise Levels

1. Noise levels from Commercial SEF shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations under 35 Ill. Adm. Code Parts 900, 901, and 910. Created: 2021-05-29 17:52:28 [EST] (Supp. No. 7) Page 94.

2. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis.

3. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Special Use Permit application as delineated below:

   a. Provide contour maps and at intervals of not greater than five feet of sound pressure levels shall be measured using the measurement procedures set forth in the IPCB regulations, except that sound pressure levels for purposes of establishing a violation of this section may be measured at any point on residentially used property and for agricultural property not more than 150 feet from any portion of the edge of the primary structure.
   b. No portion of the property shall exceed the noise levels set by the IPCB.
   c. To the extent any property has multiple uses or classifications, all the land utilized for a particular use must not exceed the IPCB noise regulations for the classification of use.
   d. The owner of the receiving land may waive compliance with local measuring point’s requirements pertaining to the IPCB regulations for the owner's property.

4. The commercial solar energy facility project will maintain compliance with the applicable IPCB regulations throughout the entire operational period of the commercial solar energy facility project.
   a. At least every twenty-four months, the County shall hire a qualified noise acoustician to

conduct testing for a thirty-day period at the ten most at risk residential property lines and ten most at risk primary structures of any agricultural property as modeled in the application to ensure ongoing compliance with the IPCB noise regulations.

b. The cost to conduct such testing shall be borne by the Facility Owner.

c. If the Facility Owner does not pay within forty-five (45) days of being provided an invoice for these costs, its Special Use Permit shall be immediately revoked. If at any time throughout the life of the commercial solar energy facility project, the noise levels are found to not be in compliance with this section, the applicant or facility owner will immediately shut off the commercial solar energy facility until the County approves a solution upon review by the Planning and Zoning Committee.

L. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the Commercial SEF application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the County as part of the Special Use Permit application.

M. Engineer's Certificate

The Commercial SEF engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a Professional Engineer with a certification from a structural engineer registered in the State of Illinois and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial SEF engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

N. Conformance with Approved Application and Plans

The Applicant shall construct and operate the Commercial SEF in substantial conformance with the construction plans contained in a County- approved submitted Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.

O. Inspections

1. The County shall retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the Commercial SEF during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the Commercial SEF is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the Commercial SEF.

2. Each commercial solar energy facility shall be required to have the facility inspected by an independent certified inspector approved by the County Zoning Administrator at the completion of the construction of the project.

   a. This inspection is to verify compliance with the zoning regulations including compliance

with the National Electric Code.

b. Inspection shall occur annually for three years following construction to verify continued compliance with the Special Use Permit. Thereafter inspections shall be performed at least every three years (triennially). Additional inspections necessitated by complaints or otherwise shall not replace annual or triennial inspection requirements. All inspections shall be at the cost of the owner of the commercial solar energy facility.

P. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.

2. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the Commercial SEF is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and to this end, the provisions in this Ordinance are severable.

3. The Applicant shall provide an executed road use agreement between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the County showing approved entrances prior to the issuance of any Commercial SEF Zoning Certificate (Building Permit).

4. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the Commercial Wind Energy Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

5. The Applicant shall provide an executed road use agreement between the Applicants and, the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the County showing approved entrances prior to the issuance of any WEF Zoning Certificate (Building Permit) or prior to construction of the WEF Project.

6. No SEF shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. The SEF shall not be installed in a location along the major axis of existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

7. If the application is determined by County Zoning Administrator, County Engineer, Planning and Zoning Committee or County Board to not be complete in all pertinent aspects or comply with broader economic development zones or benefits to citizenry at large, the application shall be rejected, and a new application may be filed.

VII. OPERATION

A. Maintenance

1. Annual Report:

The Applicant must submit, on an annual basis on the anniversary date of the Special Use Permit application, an operation and maintenance report to the County. The report shall contain the following information:

a. General description of any physical repairs, replacements or modification(s) to the Commercial SEF and/or its infrastructure.

b. Complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the Commercial SEF and the resolution of such complaints.

c. Calls for emergency services.

d. Status of liability insurance.

e. General summary of service calls to the Commercial SEF.

The County may require Annual Report be presented at the County Planning and Zoning Committee and Full County Board upon written notice and delivered at least 60 days prior to presentation.

Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article X (Remedies).

2. Re-Certification:

Any physical modification to the Commercial SEF that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section Vl of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Design and Safety Certification section, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification. Findings will be reviewed by the County Zoning Administrator and approved by the County Zoning Committee and the County Board.

a. Any modification of a SEF Project that alters or changes the essential character or operation of the SEF Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative shall apply for and receive an amended Special Use Permit prior to any modification of the SEF Project providing they meet all conditions and requirements and pay for all associated fees, processes and complying with the County Special Use Permit conditions highlighted herein.

B. Coordination with Emergency Responders

1. The Applicant at its expense shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and

any amendments to such documents, for the Commercial SEF so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the Commercial SEF.

2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the Commercial SEF.

3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated Commercial SEF representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week / 365 days per year"). Any change in the designated Commercial SEF representative or his/her contact information shall be promptly communicated to the County. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annually basis.

4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the Commercial SEF shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2. All hazardous materials related to the construction, operation and maintenance of the Commercial SEF shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

3. The Commercial SEF shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois Department of Public Health.

D. Signage

All Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad- mounted transformers and substations, and at all entrances to the Commercial SEF.

E. Drainage Systems:

1. The Applicant, at its expense, will repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and operation phases of the Commercial SEF in accordance with the Agricultural Impact Mitigation Agreement.

2. The Applicant or Operator of Commercial SEF shall provide drainage impact assessment every five (5) years including inspection or assessment of property drainage system.

Failure to provide the annual report or come in person to present annual report shall be considered a material violation of this Ordinance and subject to Article XV (Remedies).

VIII. LIABILITY INSURANCE AND INDEMNIFICATION

A. Insurance:

1. A. Commencing with the issuance of a SEF Zoning Certificate (Building Permit), the Applicant shall maintain:
   a. A commercial auto liability policy with limits of at least Ten Million Dollars ($10,000,000.00).
   b. A comprehensive general liability policy coverage covering bodily injury, death and illness, and property damage with limits of at least Ten Million Dollars ($10,000,000.00) per occurrence and Twenty Million Dollars ($20,000,000.00) in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed" by the Applicant for the SEF Project during the life of the SEF Project.

2. The Applicant (SEF Permittee) shall defend, indemnify and hold harmless the County of and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the SEF and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (SEF Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties.
   a. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

3. The Applicant shall include the County of Ogle and its officers, appointed and elected officials, employees, attorneys, engineers and agents collectively and individually, as additional insured in regards to the ongoing and completed operations of the Applicant on a primary and non-contributory basis, with a waiver of subrogation as regard to the auto liability and general liability policies.

4. The Applicant shall file the original certificate of insurance along with the required endorsements prior to the issuance of a SEF Zoning Certificate (Building Permit). Corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.
5. The applicant or facility owner shall promptly increase such liability insurance on the next annual renewal if such amount of Insurance is increased in this Ordinance and the applicant or facility owner is notified in writing of same by the County. The applicant shall provide evidence of such increased insurance to the County Zoning Administrator. Insurance

coverage shall be maintained without interruption from the date of permitting through the decommissioning.

IX. DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

The Applicant must formulate a Decommissioning and Site Reclamation Plan to ensure that the Commercial SEF is properly decommissioned. The Decommissioning and Site Reclamation Plan shall be binding upon the Applicant and its successors-in-interest and assigns and shall apply to all participating parcels in the Commercial SEF, irrespective of the owner of title to such parcels. A signed Decommissioning and Site Reclamation Plan must be submitted to the county prior to the granting of the Special Use Permit. The Applicant shall ensure that the Commercial SEF is properly decommissioned within twelve (12) months of the end of the Commercial SEF life. The Applicant shall include removal of all physical material of the project improvements to a depth of sixty (60) inches beneath the soil surface and the restoration of the area in accordance with the Agricultural Impact Mitigation Agreement.

A. The Decommissioning and Site Reclamation Plan shall be prepared by an independent Illinois Certified Professional Engineer at owners expense and shall include:

1. A description of the methodology and cost to remove all above ground and below ground Commercial SEF equipment of the approved Special Use Permit.

2. Provisions for the removal of all above ground and below ground Commercial SEF equipment of the approved Special Use Permit.

3. Methodology and cost to restore all areas used for construction, operation and access to a condition equivalent to the land prior to the Commercial SEF construction.

4. A work schedule and a permit list necessary to accomplish the required work.

5. Methodology to identify and manage any hazardous or special materials.

6. Submission of a draft form of Financial Security to the County in the form of a surety bond (performance and payment bond), irrevocable letter of credit or a cash escrow account that names County as the beneficiary, or other type of Financial Security that is approved by the County. If an irrevocable letter of credit or surety bond (performance and payment bond) is selected, the original of the irrevocable letter of credit or surety bond shall be held by the County. If a cash escrow is selected, the cash escrow shall be held and managed by an independent third party (e.g., Escrow Agent or Title Company) on behalf of the County, subject to escrow instructions that incorporate the applicable decommissioning and repair / replacement / restoration obligations of this Agreement as executed by the County and the Applicant.

7. The amount of Financial Security shall be equal to the total cost of all decommissioning and restoration work minus the salvage value of the Commercial SEF equipment. To determine that amount, the Applicant shall:

   a. Obtain bid specifications provided by a professional structural engineer.
   b. Request estimates from construction I demolition companies capable of completing the decommissioning of the Commercial SEF.
   c. Certification of the selected estimate by a professional structural engineer.
   d. The County Engineer, an independent engineer of the County's choosing, and the County

Zoning Administrator will review all estimates and make a recommendation to the County Planning and Zoning Committee, and ultimately the full County Board for an acceptable estimate.

Note:

The County reserves the right to pursue other estimates. All costs to secure the estimates will be funded by the Applicant.

8. A provision that the terms of the Decommissioning and Site Reclamation Plan shall be binding upon the Applicant including any of its successors-in-interest and assigns.

9. Confirmation by affidavit that the obligation to decommission the Commercial SEF is included in the lease agreement for every parcel included in the Special Use Permit application. A list of all landowners should be kept current, and affidavits shall be secured from Applicant and landowners stating their financial understanding.

10. County retains all rights to challenge any and all Salvage value assessment in Site Decommissioning Plan as a condition for approval of Commercial SEF.

    a. Salvage value determinations shall be reviewed by Zoning Administrator and independently assessed by Engineering Firm selected by County. All Salvage value determinations require approval by the County Zoning Administrator and the County Planning and Zoning Committee.

11. A provision that allows for the County to have the legal right to transfer applicable Commercial SEF material to salvage firms.

12. Identification of and procedures for the County to access the Financial Assurances.

13. A provision that the County shall have access to the site, pursuant to reasonable notice to affect or complete decommissioning. A portion of the Decommission Security will be required to be held for one (1) year past the decommissioning to settle any potential disputes.

14. An update to this decommissioning plan should be submitted to the county every three years. In addition, any decommissioning plans signed by the party responsible for decommissioning and the landowner (if different) shall be submitted with the application.

15. The county holds the right to require additional information as the county deems necessary to be part of the review of this plan.

16. If the Facility Owner does not completely decommission the commercial solar energy facility and the Financial Assurance is not sufficient to decommission the commercial solar energy facility, the property owners of any property with a solar turbine or a substation on it shall be financially responsible to the County for the costs of decommissioning incurred by the County with the County having the authority to place a lien on any property that does not pay its share of the cost of decommissioning within thirty days.

B. Provisions triggering the decommissioning of any portion of the Commercial SEF:

1. If Applicant has not paid landowners an amount owed in accordance with their lease agreements for a period of six (6) consecutive months.

2. The Applicant dissolves or abandons the Commercial SEF without first transferring the Commercial SEF to a successor-in-interest or assign.

3. If any part of the Commercial SEF falls into disrepair or creates any other health and safety issue deemed by the County Zoning Administrator and the County Board.

C. Provisions for the removal of structures, debris and cabling; both above and below the soil surface:

1. Items required to be completely removed include but are not limited to: solar panels, cells and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems; solar panel foundations, if used, to a depth of 60 inches; transformers, inverters, energy storage facilities, or substations; overhead collection system components; operations/maintenance buildings, spare parts buildings and substations/switching gear buildings; access roads; operation/maintenance yard/staging area; debris and litter; underground cables, fencing and all below grade fencing concrete, access roads and culverts.

   Note:
   A landowner must sign an agreement if they wish for operations/maintenance buildings, spare parts buildings and substations/switching gear buildings; operation/maintenance yard/staging area; access roads or culverts to remain and must obtain appropriate Zoning Administrator acceptance to ensure not to impact principal zoning of property.

D. Provisions for the restoration of soil and vegetation:

1. All affected areas shall be inspected, thoroughly cleaned and all construction related debris shall be removed.

2. All affected areas must be remediated pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

3. Items required to be restored include but are not limited to: windbreaks, waterways, site grading, drainage tile systems and topsoil to former productive levels.

4. In work areas involving decommission from widening access roads or any other work areas, the topsoil must be first removed, identified and stored separate from other excavated material for later replacement as applicable.

5. The 60-inch below-surface excavation area shall be filled with clean sub-grade material of similar quality to that in the immediate surrounding area.

6. All sub-grade material will be compacted to a density similar to surrounding grade material.

7. All unexcavated areas compacted by equipment used in decommissioning shall be de-compacted in a manner that adequately restores the topsoil and sub-grade material to the proper density consistent and compatible with the surrounding area.

8. Where possible, the topsoil shall be replaced to its original depth and surface contours.

9. Any topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of the effected site.

10. Items required to be repaired after decommissioning include but are not limited to: roads, bridges and culverts.

11. An independent drainage engineer shall be present to ensure drainage tiles, waterways, culverts, etc. are repaired as work progresses.

12. A soil erosion control plan shall be approved by the Ogle County Soil and Water Conservation District.

13. All applicable storm water management, floodplain and other surface water rules, regulations and ordinances shall be followed.

E. Estimating the costs of decommissioning:

1. Costs shall include but not be limited to engineering fees, legal fees, accounting fees, insurance costs, decommissioning and site restoration minus the salvage value of the Commercial SEF.

2. Adjustments to the financial assurance amount that reflect changes in the decommissioning costs shall be submitted every five (5) years after the initial ten (10) years of operation and shall be adjusted for inflation and other factors. The amount of the Decommission Security shall be adjusted accordingly within six (6) months of receiving the updated information as determined by an Illinois professional engineer. Failure to provide financial assurance as outlined herein shall be considered a cessation of operation.

F. Financial Assurance:

1. Financial Security shall be phased in and provided to the County over the first eleven (11) years of the project as follows:

a. On or before the first anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover ten (10) percent of the estimated costs of decommissioning the Commercial SEF as determined in the Decommissioning and Site Reclamation Plan.

b. On or before the sixth anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover fifty percent (50%) of the estimated costs of decommissioning the Commercial SEF as determined in the Decommissioning and Site Reclamation Plan.

c. On or before the eleventh anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover one hundred (100) percent of the estimated costs of decommissioning the Commercial SEF as determined in the Decommissioning and Site Reclamation Plan.

2. The County shall have immediate access, upon written notice to the Applicant, to use the Decommission Security if:

a. After abandonment of the Commercial SEF, the Applicant, upon a reasonable determination by the County Board, fails to address a health and safety issue in a timely manner or:

b. The Applicant fails to decommission the abandoned Commercial SEF in accordance with the Decommissioning and Site Reclamation Plan.

3. If possible for the type of Decommission Security provided, the Applicant shall grant perfected security in the Decommission Security 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/ et seq.

4. The County Board or its escrow agent shall release the Decommission Security when the Applicant has demonstrated and the County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan. Ten percent (10%) of the Decommission Security shall be retained one (1) year past the date to settle any outstanding concerns.

5. Any interest accrued on the Decommission Security that is over and above the total value as determined by the Illinois professional structural engineer shall go to the Applicant.

6. The Applicant shall identify procedures for the County to assess the financial assurances, particularly if it is determined that there is a health and/or safety issue with the Commercial SEF and the principal company fails to adequately respond as reasonably determined by the County Board.

7. The County shall be listed as a debtor in connection with any proceeding in insolvency or bankruptcy but shall not be responsible for any claims against the Applicant.

8. The Applicant shall agree that the obligations and liabilities under a Special Use Permit shall be binding upon the Applicant (which, for the avoidance of doubt, includes its successors-in-interest and assignees) and the Operator. The Applicant further shall agree that the sale, assignment in fact or at law, or other transfer of the Applicant's financial interest in the Commercial SEF shall in no way effect or change the Applicant's obligation to continue to comply with the terms, covenants and obligations of a Special Use Permit unless such successor-in-interest or assignee agrees to assume all obligations of the Special Use Permit, including but not limited to the decommissioning obligations associated with the Commercial SEF.

9. The County and its authorized representatives have the right of entry onto the Commercial SEF premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.

G. Road Use Agreement (Decommissioning)

1. At least thirty (30) days prior to the start of decommissioning operations, the applicant may be required to enter into a new road use agreement with the County and each affected Road District for the use of public roads to be used for transporting materials and equipment associated with the deconstruction and decommissioning of the Commercial SEF.

2. Requirements for the road use agreement shall be the same as described in Section VI, Paragraph I.

X. REMEDIES

A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/ or failure to comply with any law or regulation shall be a default and shall be grounds for revocation of the Special Use Permit by the County Board.

B. Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty

(60) days to continue to pursue the cure before the County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.

XI. FEE SCHEDULE AND PERMITTING PROCESSES

A. Application Fees:

1. Prior to processing any Special Use Permit Application Fees for a Commercial SEF, the Applicant shall submit a certified check to the County for the Application Fee equal to two (2%) percent off proposed commercial value, up to a maximum fee of $25,000. These funds shall be placed in an FDIC insured account and will be used to cover the County's cost incurred in processing the Application.

2. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County.

3. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the County exist regarding the Commercial SEF, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes or negotiations. An Applicant may request any unused Application Fee be applied toward the Zoning Certificate (Building Permit) Fees for the Facility.

B. Zoning Certificate (Building Permit) Fees:

1. Prior to the issuance of a Zoning Certificate (Building Permit), the Applicant must deposit the Zoning Certificate (Building Permit) Fee equating to five (5%) of the Commercial Value of the Commercial SEF.

   a. Commercial Value Assessment may be validated by independent engineer or engineering firm selected by the County Zoning Administrator.

   b. The Minimum Fee collected for Commercial SEF will be no less than $50,000.

C. Road Use Agreement Fees:

1. Not less than thirty (30) days after zoning has been granted, an initial engineering and legal fee of no less than one hundred thousand dollars ($100,000) shall be deposited into the County Treasury ("Engineering Fund") to cover all engineering consulting and legal fees incurred by the County for the duration of the project from initial construction efforts to completion. The amount of the initial engineering and legal fee may be adjusted at the

discretion of the County Engineer based on the size of the proposed project. Additional funds shall be required, as deemed necessary by the County Engineer. Monies remaining in the Consulting Fund at the completion of the project will be refunded back to the Commercial SEF Project.

2. Security instrument in the amount of 125% of the estimated roadway base damage repair and roadway surface repairs and upgrades.

   Note:
   Road Use Agreement Fees may be adjusted or waived for Commercial SEF under special conditions. Any adjustment or waiving of the County Road Use Agreement Fees must be detailed with supporting documentation and approved by the County Engineer, all affected Township Road Commissioners and the County Zoning Administrator. Final approval is required by the County Zoning Committee and County Board.

D. All Costs to be Paid by Applicant or Owner:

1. In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County, and third-party costs incurred by the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations.

XII. REVIEW AND CONSIDERATION FACTORS OF SPECIAL USE PERMIT APPLICATION

A. The County Zoning Administrator shall review the application for completeness with the requirements of this Ordinance in a preliminary investigation.

B. Upon completion of this preliminary investigation, including checklist of all requirements, and acceptance of all applicable fees, the County Zoning Administrator shall schedule a date for a public hearing before the Zoning Board of Appeals within forty-five (45) days of accepting the application with a County Board final decision to be made within thirty (30) days of the public hearing.

XIII. HEARING FACILITATOR

A. The County may engage the services of a Hearing Facilitator. The Hearing Facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the Zoning Board of Appeals and the County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.

B. The Hearing Facilitator shall be an attorney, licensed to practice in the State of Illinois. The Applicant shall reimburse the county for the fees and costs charged by the Hearing Facilitator.

XIV. HEARING FACTORS

A. The County Board shall approve a Commercial SEF Special Use Permit application, if it finds the evidence complies with state and federal law and regulations, and with the standards of the *Ogle County Amendatory Zoning Ordinance* including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

1. The establishment, maintenance or operation of the Commercial SEF will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

2. The Commercial SEF will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties.

3. The establishment of the Commercial SEF will not impede the normal and orderly development and improvement of the surrounding properties.

4. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided.

5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

6. The proposed Commercial SEF is not contrary to the objectives of the *Ogle County Amendatory Comprehensive Plan*.

7. The Commercial SEF shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board.

XV. SPECIAL USE PERMIT CONDITIONS AND RESTRICTIONS

The County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the Commercial SEF as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.

A. Revocation.

1. In any case where a Special Use Permit has been approved for a Commercial SEF, the Applicant shall apply and receive for a Commercial SEF Zoning Certificate (Building Permit) from the County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit.

2. If the Applicant fails to apply for and receive a Commercial SEF Zoning Certificate (Building Permit) from the County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the County Board, the Special Use Permit authorizing the construction and operation of the Commercial

SEF shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.

3. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the Commercial SEF or the Commercial SEF ceases to operate for more than twelve (12) consecutive months for any reason.

4. Subject to the provisions of Article X (Remedies), a Special Use Permit may be revoked by the County Board if the Commercial SEF is not constructed, installed and/or operated in substantial conformance with the County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.

B. Transferability
   1. Owner or Commercial SEF Permittee. The Applicant shall provide written notification to the County Board at least thirty (30) days prior to any change in ownership of a Commercial SEF of any such change in ownership. The phrase "change in ownership of a Commercial SEF" includes any kind of assignment, sale; lease, transfer or other conveyance of ownership or operating control of the Applicant, the Commercial SEF or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Special Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

C. Modification.
   1. Any modification of a Commercial SEF that alters or changes the essential character or operation of the Commercial SEF in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the Commercial SEF.

D. Permit Effective Date:
   1. The Special Use Permit shall become effective upon approval of the ordinance by the County Board.

XVI. INTERPRETATION

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of Ogle County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Ogle County nor conflict with any statutes of the State of Illinois.

XVII. SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

XVIII. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, publication and approval as required by law.

Presented at the Ogle County Board Meeting on May 16, 2023.

John Finfrock, Ogle County Board Chairman	Laura J. Cook, Ogle County Clerk

APPENDIX A

COUNTY FENCING AND GATE DETAIL

CROSS REFERENCE SECTION VI, E-5

(CHAIN LINK FENCING DETAIL)

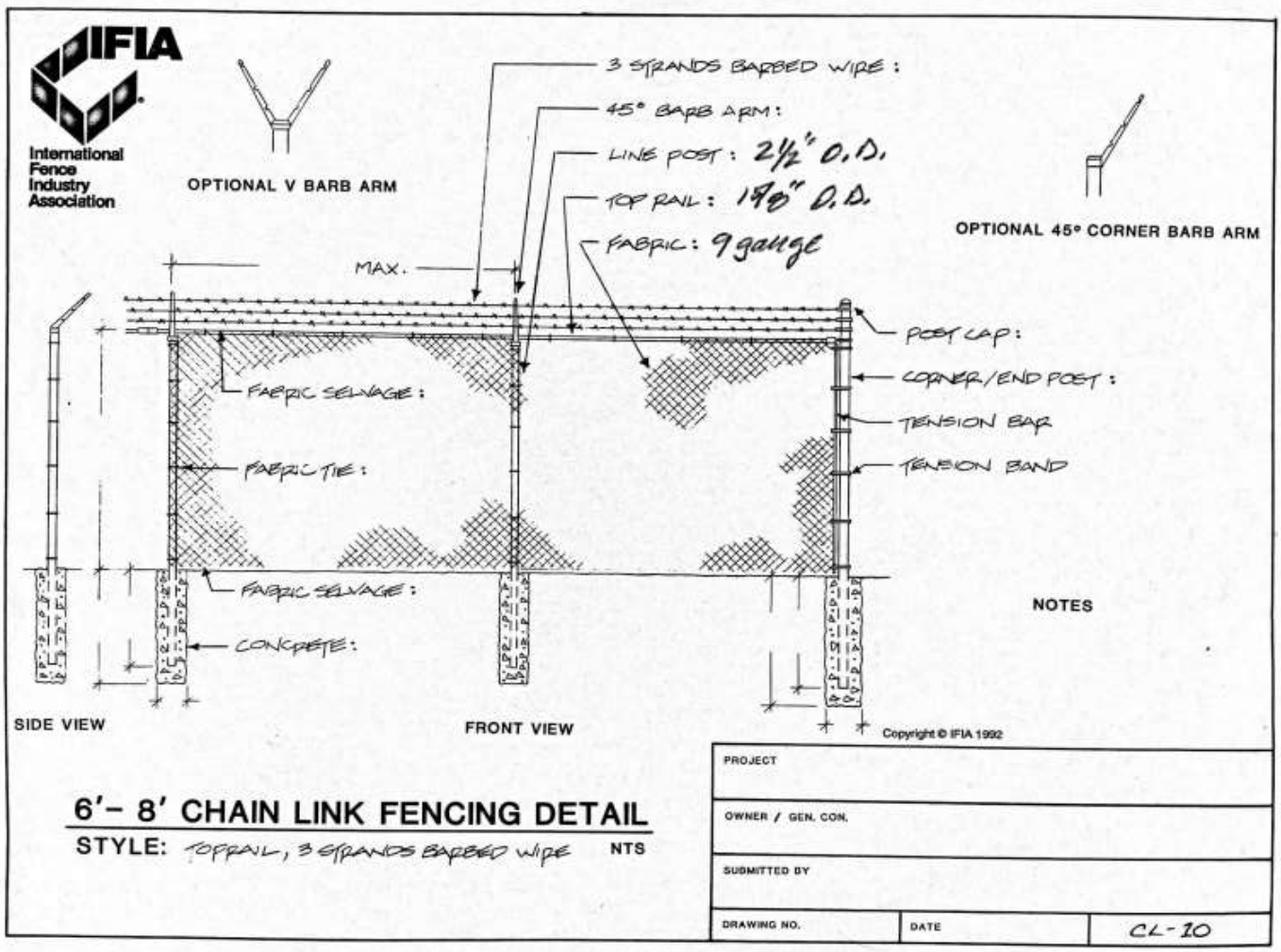


Figure 1: County Chain Link Fence Detail

APPENDIX A

COUNTY FENCING AND GATE DETAIL

CROSS REFERENCE SECTION VI, E-5

(INDUSTRIAL GATE DETAIL)

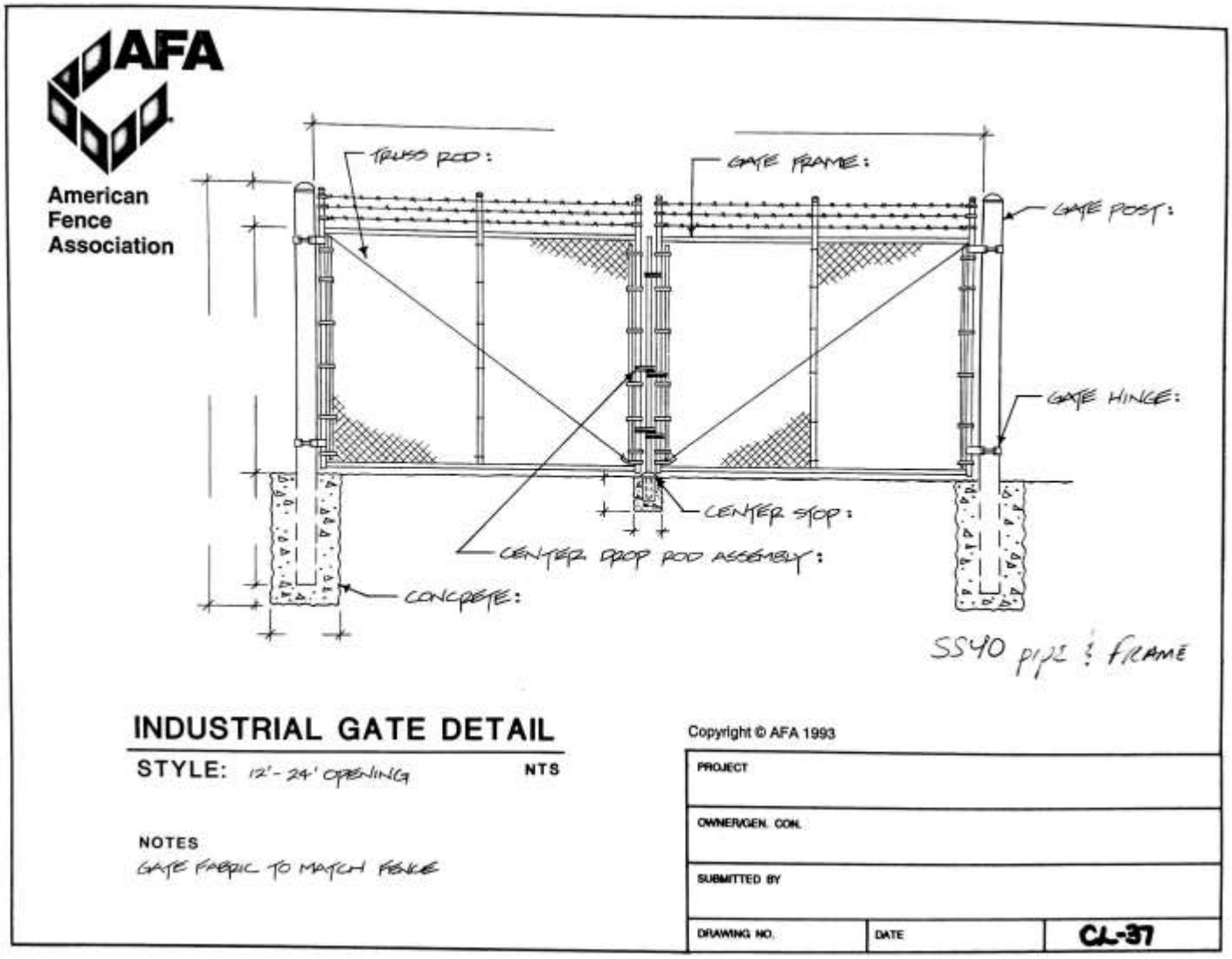


Figure 2: County Industrial Gate Detail