

## SECTION 6.1.1 A. ORDINANCE COMPARISON

| Current Zoning Ordinance   | Proposed Amendment dated 08/17/23  |
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| <p><b>6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES</b></p> <p>A. Decommissioning and Site Reclamation Plan for NON-ADAPTABLE STRUCTURES</p> <p>1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any WIND FARM and any PV SOLAR FARM shall be a NON-ADAPTABLE STRUCTURE. The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall submit a decommissioning and site reclamation plan to the BOARD for the subject site.</p> <p>2. The decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the decommissioning and site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.</p> <p>3. Separate cost estimates for Section 6.1.1A.4.a., 6.1.1A.4.b., and 6.1.1A.4.c. shall be provided by an Illinois Licensed Professional Engineer.</p> <p style="padding-left: 40px;">a. Cost estimates provided shall be subject to approval of the BOARD.</p> | <p>A. Decommissioning and Site Reclamation Plan for NON-ADAPTABLE STRUCTURES</p> <p>1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any WIND FARM and any PV SOLAR FARM shall be a NON-ADAPTABLE STRUCTURE. The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall submit a decommissioning and site reclamation plan to the BOARD for the subject site.</p> <p>2. The decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the decommissioning and site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.</p> <p>3. Separate cost estimates for Section 6.1.1A.4.a., 6.1.1A.4.b., and 6.1.1A.4.c. shall be provided by an Illinois Licensed Professional Engineer.</p> <p style="padding-left: 40px;">a. Cost estimates provided shall be subject to approval of the BOARD.</p> |

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### Section 6.1.1 A.3. (continued)

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| <p>b. Except as provided in Section 6.1.4P., and Section 6.1.5Q., the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.</p> <p>4. The decommissioning and site reclamation plan shall provide for:</p> <p>a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;</p> <p>b. below-ground restoration, including final grading and surface treatment;</p> <p>c. any environmental remediation required by State or Federal law;</p> <p>d. provision and maintenance of a letter of credit, as set forth in Section 6.1.1A.5.</p> <p>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.</p> <p>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.</p> | <p>b. Except as provided in Section 6.1.4P., and Section 6.1.5Q., the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.</p> <p>4. The decommissioning and site reclamation plan shall provide for:</p> <p>a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;</p> <p>b. below-ground restoration, including final grading and surface treatment;</p> <p>c. any environmental remediation required by State or Federal law;</p> <p>d. provision and maintenance of a letter of credit, as set forth in Section 6.1.1A.5.</p> <p>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.</p> <p>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. <u>This requirement shall not apply</u></p> |
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| <p><b>Section 6.1.1 A.5. (continued)</b></p> <p>b. The provisions of this subparagraph notwithstanding, a different amount may be required as a special condition.</p> <p>c. The letter of credit, or a successor letter of credit pursuant to Section 6.1.1A.6. or 6.1.1A.14., shall remain in effect and shall be made available to the COUNTY for a term specified as a standard condition elsewhere in this Ordinance, an indefinite term, or for a different term that may be required as a special condition.</p> <p>6. One hundred eighty (180) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this Section, the Zoning Administrator shall notify the landowner or applicant in writing and request information about the landowner or applicant's intent to renew the letter of credit or remove the NON-ADAPTABLE STRUCTURE. The landowner or applicant shall have thirty (30) days to respond in writing to this request. If the landowner or applicant's intention is to remove the NON-ADAPTABLE STRUCTURE, the landowner or applicant will have a total of ninety (90) days from the date of response to remove it in accordance with Section 6.1.1A.4.a. At the end of ninety (90) days, the Zoning Administrator shall have a period of sixty (60) days to either:</p> | <p><u>to any WIND FARM or SOLAR FARM approved after {effective date}.</u></p> <p>b. The provisions of this subparagraph notwithstanding, a different amount may be required as a special condition. <u>This requirement shall not apply to any WIND FARM or SOLAR FARM approved after {effective date}.</u></p> <p>c. The letter of credit, or a successor letter of credit pursuant to Section 6.1.1A.6. or 6.1.1A.14., shall remain in effect and shall be made available to the COUNTY for a term specified as a standard condition elsewhere in this Ordinance, an indefinite term, or for a different term that may be required as a special condition.</p> <p>6. One hundred eighty (180) days prior to the expiration date of an irrevocable letter of credit submitted pursuant to this Section, the Zoning Administrator shall notify the landowner or applicant in writing and request information about the landowner or applicant's intent to renew the letter of credit or remove the NON-ADAPTABLE STRUCTURE. The landowner or applicant shall have thirty (30) days to respond in writing to this request. If the landowner or applicant's intention is to remove the NON-ADAPTABLE STRUCTURE, the landowner or applicant will have a total of ninety (90) days from the date of response to remove it in accordance with Section 6.1.1A.4.a. At the end of ninety (90) days, the Zoning Administrator shall have a period of sixty (60) days to either:</p> |
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| <p><b>Section 6.1.1 A.6. (continued)</b></p> <ul style="list-style-type: none"><li>a. confirm that the bank has renewed the letter of credit; or</li><li>b. inspect the subject property for compliance with Section 6.1.1A.4.a.;</li><li>c. draw on the letter of credit and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to Section 6.1.1A.4.a.</li></ul> <p>7. The Zoning Administrator may find a NON-ADAPTABLE STRUCTURE abandoned in place. Factors to be considered in making this finding include, but are not limited to:</p> <ul style="list-style-type: none"><li>a. the nature and frequency of use as set forth in the application for SPECIAL USE;</li><li>b. the current nature and frequency of use:</li><li>c. whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to the public health or safety;</li><li>d. whether the NON-ADAPTABLE STRUCTURE has been maintained in a manner which allows it to be used for its intended purpose, with no greater effects on surrounding properties and the public as a whole than was originally intended.</li><li>e. A court of law, an arbitrator, mediator, or any State or Federal agency charged with enforcing State or Federal law has made a</li></ul> | <ul style="list-style-type: none"><li>a. confirm that the bank has renewed the letter of credit; or</li><li>b. inspect the subject property for compliance with Section 6.1.1A.4.a.;</li><li>c. draw on the letter of credit and commence the bid process to have a contractor remove the NON-ADAPTABLE STRUCTURE pursuant to Section 6.1.1A.4.a.</li></ul> <p>7. The Zoning Administrator may find a NON-ADAPTABLE STRUCTURE abandoned in place. Factors to be considered in making this finding include, but are not limited to:</p> <ul style="list-style-type: none"><li>a. the nature and frequency of use as set forth in the application for SPECIAL USE;</li><li>b. the current nature and frequency of use:</li><li>c. whether the NON-ADAPTABLE STRUCTURE has become a public nuisance, or otherwise poses a risk of harm to the public health or safety;</li><li>d. whether the NON-ADAPTABLE STRUCTURE has been maintained in a manner which allows it to be used for its intended purpose, with no greater effects on surrounding properties and the public as a whole than was originally intended.</li><li>e. A court of law, an arbitrator, mediator, or any State or Federal agency charged with enforcing State or Federal law has made a</li></ul> |
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### Section 6.1.1 A.7. (continued)

finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-ADAPTABLE STRUCTURE relating to its use or denying the NON-ADAPTABLE STRUCTURE a permit necessary for its lawful operation.

finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-ADAPTABLE STRUCTURE relating to its use or denying the NON-ADAPTABLE STRUCTURE a permit necessary for its lawful operation.

- 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.

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| <p>8. Once the Zoning Administrator has made a finding that a NON-ADAPTABLE STRUCTURE is abandoned in place, the Zoning Administrator shall issue notice to the land owner at the owner's last known address, lessees, any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan, that the COUNTY will draw on the performance guarantee within thirty (30) days unless the owner appeals the Zoning Administrator's finding, pursuant to Section 9.1.8 or enters into a written agreement with the COUNTY to remove such NON-ADAPTABLE STRUCTURE in accordance with Section 6.1.1A.4. within ninety (90) days and removes the NON-ADAPTABLE STRUCTURE accordingly.</p> <p>9. The Zoning Administrator may draw on the funds to have said NON-ADAPTABLE STRUCTURE removed as per Section 6.1.1A.4. of the decommissioning and site reclamation plan when any of the following occur:</p> <ul style="list-style-type: none"><li>a. no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;</li><li>b. the land owner does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE STRUCTURE as provided in Section 6.1.1A.8.;</li><li>c. any breach or performance failure of any provision of the decommissioning and site reclamation plan;</li><li>d. the owner of record has filed a bankruptcy petition, or compromised the COUNTY's interest in the letter of credit in any way not</li></ul> | <p>8. Once the Zoning Administrator has made a finding that a NON-ADAPTABLE STRUCTURE is abandoned in place, the Zoning Administrator shall issue notice to the land owner at the owner's last known address, lessees, any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan, that the COUNTY will draw on the performance guarantee within thirty (30) days unless the owner appeals the Zoning Administrator's finding, pursuant to Section 9.1.8 or enters into a written agreement with the COUNTY to remove such NON-ADAPTABLE STRUCTURE in accordance with Section 6.1.1A.4. within ninety (90) days and removes the NON-ADAPTABLE STRUCTURE accordingly.</p> <p>9. The Zoning Administrator may draw on the funds to have said NON-ADAPTABLE STRUCTURE removed as per Section 6.1.1A.4. of the decommissioning and site reclamation plan when any of the following occur:</p> <ul style="list-style-type: none"><li>a. no response is received from the land owner within thirty (30) days from initial notification by the Zoning Administrator;</li><li>b. the land owner does not enter, or breaches any term of a written agreement with the COUNTY to remove said NON-ADAPTABLE STRUCTURE as provided in Section 6.1.1A.8.;</li><li>c. any breach or performance failure of any provision of the decommissioning and site reclamation plan;</li><li>d. the owner of record has filed a bankruptcy petition, or compromised the COUNTY's interest in the letter of credit in any way not</li></ul> |
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| <p><b>Section 6.1.1 A.9. (continued)</b></p> <p>specifically allowed by the decommissioning and site reclamation plan;</p> <p>e. a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;</p> <p>f. the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.1A.6.; or</p> <p>g. any other conditions to which the COUNTY and the land owner mutually agree, as set forth in the decommissioning and site reclamation plan.</p> | <p>specifically allowed by the decommissioning and site reclamation plan;</p> <p>e. a court of law has made a finding that a NON-ADAPTABLE STRUCTURE constitutes a public nuisance;</p> <p>f. the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.1A.6.; or</p> <p>g. any other conditions to which the COUNTY and the land owner mutually agree, as set forth in the decommissioning and site reclamation plan.</p> <p>h. <u>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</u></p> |
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| <p><b>Section 6.1.1 A.9. (continued)</b></p> <p>10. Once the letter of credit has been drawn upon, and the site has been restored to its original condition, as certified by the Zoning Administrator, the covenant entered into pursuant to Section 6.1.1A.2. shall expire, and the COUNTY shall act to remove said covenant from the record of the property at the Recorder of Deeds within forty-five (45) days.</p> <p>11. The proceeds of the letter of credit may only be used by the COUNTY to:</p> <p style="padding-left: 40px;">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;</p> <p style="padding-left: 40px;">b. pay all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work, which shall include, but not be limited to, attorney’s fees; construction management and other professional service fees; and the costs of preparing request for proposal and bidding documents required to comply with State law or Champaign County purchasing policies; and</p> <p style="padding-left: 40px;">c. remove any covenants placed on the title in conjunction with Section 6.1.1A.2.</p> | <p style="text-align: right;"><u>electricity shall have been generated for a continuous period of 12 months.</u></p> <p>10. Once the letter of credit has been drawn upon, and the site has been restored to its original condition, as certified by the Zoning Administrator, the covenant entered into pursuant to Section 6.1.1A.2. shall expire, and the COUNTY shall act to remove said covenant from the record of the property at the Recorder of Deeds within forty-five (45) days.</p> <p>11. The proceeds of the letter of credit may only be used by the COUNTY to:</p> <p style="padding-left: 40px;">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;</p> <p style="padding-left: 40px;">b. <u>for other than any WIND FARM or SOLAR FARM approved after {effective date},</u> 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</p> <p style="padding-left: 40px;">c. remove any covenants placed on the title in conjunction with Section 6.1.1A.2.</p> |
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| <p><b>Section 6.1.1 A.11. (continued)</b></p> <p>The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.</p> <p>12. No dispute as to the necessity or reasonableness of any costs of performing the site reclamation work identified in Section 6.1.1A.11. shall impair the ability of Champaign County to draw on the Financial Assurance.</p> <p>13. In accordance with the provisions of the Illinois Mechanics Lien Act, 770 ILCS 60/1 and 60/7, the Applicant or successors in interest agree that any contractor retained by Champaign County to perform the decommissioning and site reclamation work in Section 6.1.1A.11, shall have a lien upon the project to the full extent of all costs performing the decommissioning and site reclamation work identified in Section 6.1.1A.11., and that such lien shall be superior to any claim or lien of any other creditor, incumbrancer or purchaser.</p> <p>14. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner or applicant of record shall submit a new irrevocable letter of credit of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall submit a new decommissioning and site reclamation plan, pursuant to Section 6.1.1A.4., and, for WIND FARMS, Section 6.1.4P., and for PV SOLAR FARMS, 6.1.5Q. Once the new owner or applicant of record has done so, the letter of credit posted by the previous owner or applicant shall be released, and the previous owner shall be released from any further obligations under the decommissioning and site reclamation plan.</p> | <p>The balance of any proceeds remaining after the site has been reclaimed shall be returned to the issuer of the letter of credit.</p> <p>12. No dispute as to the necessity or reasonableness of any costs of performing the site reclamation work identified in Section 6.1.1A.11. shall impair the ability of Champaign County to draw on the Financial Assurance.</p> <p>13. In accordance with the provisions of the Illinois Mechanics Lien Act, 770 ILCS 60/1 and 60/7, the Applicant or successors in interest agree that any contractor retained by Champaign County to perform the decommissioning and site reclamation work in Section 6.1.1A.11, shall have a lien upon the project to the full extent of all costs performing the decommissioning and site reclamation work identified in Section 6.1.1A.11., and that such lien shall be superior to any claim or lien of any other creditor, incumbrancer or purchaser.</p> <p>14. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner or applicant of record shall submit a new irrevocable letter of credit of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall submit a new decommissioning and site reclamation plan, pursuant to Section 6.1.1A.4., and, for WIND FARMS, Section 6.1.4P., and for PV SOLAR FARMS, 6.1.5Q. Once the new owner or applicant of record has done so, the letter of credit posted by the previous owner or applicant shall be released, and the previous owner shall be released from any further obligations under the decommissioning and site reclamation plan.</p> |
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| <p>15. The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.</p> | <p>15. The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.</p> |
| <p>16. Should the decommissioning and site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE Permit shall be deemed void.</p>     | <p>16. Should the decommissioning and site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE Permit shall be deemed void.</p>     |