

**FULTON COUNTY
ZONING
ORDINANCE**

JANUARY 1ST, 2009

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SECTION 1

TITLE, INTENT, AND PURPOSE

A. **TITLE:** These regulations may be referred to as the “Zoning Ordinance.”

B. **INTENT AND PURPOSE:**

1. These regulations have been based upon the Comprehensive Plan for Fulton County, adopted by the Board of Supervisors in December of 1970 and updated in June of 1987. The Comprehensive Plan included estimates of population growth, land use surveys, a land use plan, plans for major thoroughfares, other transportation facilities, community facilities, public services and utilities and a public works program.
2. These regulations are further based upon data and experiences reflecting the past 20 years of zoning in the County.
3. Need for public services and facilities in both size and location depends upon the character and intensity of land use. Regulation of the use of land is thus fundamental to a coordinated optimum physical development of the entire process of improvement of the physical environment.
4. The regulations are intended to preserve and protect existing property uses and values against adverse or inharmonious adjacent uses.
5. The land use regulations divide the area into a number of zoning districts, and emphasize character as well as location and density of the land uses.
 - a. The Comprehensive Plan included careful estimates of the land area requirements for the various land uses, such as commerce, residence, industry, transportation and public uses. Urban uses should be directed into that land area where they may be most efficiently served by public services and facilities such as sewers, water, schools, parks and the like. Remaining lands should be reserved for rural uses, such as agriculture and conservation.
 - b. In the past, residential neighborhoods have deteriorated because they were invaded by small isolated commercial uses and by more intensive residential uses such as apartment complexes. The great majority of our population desire to, and do, live in single-family homes which they own and which are located on fairly large lots. These regulations establish one district designed specifically for single-family and duplex homes.
 - c. A second residential district was established for multi-family homes and apartment complexes. Density, yard and parking regulations insure good living conditions in these areas.

- d. There is one business district for commercial uses and one industrial district for light manufacturing as permitted uses and heavy manufacturing as conditional uses.
- e. The regulations are reasonable in relation to existing conditions. Yard dimensions are adjusted to peculiarities of existing lots.
- f. Most uses are required to provide its own off street parking. Over a period of years, enforcement of this requirement will enable streets to be used primarily for traffic movement.
- g. The regulations have been designed to work harmoniously with each other with the totality providing a minimum degree of land use control essential to the realization of the optimum urban environment.

SECTION 2

DISTRICTS AND BOUNDARIES

A. **DISTRICTS:** Fulton County is divided into five specific zoning districts.

1. AC Agriculture/Conservation
2. R-1 Residential
3. R-2 Residential
4. B Business
5. I Industrial

B. **DISTRICT BOUNDARIES:**

1. The boundaries of the districts are shown upon the map attached hereto and made a part hereof, which map is designated as the "District Map." The District Map and all notations, references and other information shown thereon are a part of this Ordinance and have the same force and effect as if the District Map and all the notations, references and other information shown thereon were all fully set forth or described herein, the original of which District Map is properly attested and is on file with the County Clerk of Fulton County, Illinois.
2. Whenever any roadway, street, alley or other public way is vacated by the United States Government, State of Illinois, County of Fulton, Township, Township Road District or Municipality, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

SECTION 3

GENERAL PROVISIONS

A. EXCEPT AS HEREINAFTER PROVIDED:

1. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the area regulations of the district in which the building is located.
4. In the R-1 and R-2 Districts, there shall not be more than one main building per lot.
5. In the B and I Districts, there may be more than one main building located on a lot.
6. In the AC District, there may be more than one dwelling on a single lot, providing that the following conditions are met:
 - a. A separate acre of land must be provided for each dwelling.
 - b. The required yards must be provided around each dwelling.
 - c. Each dwelling must be provided with access to a main road.
 - d. Approval must be obtained from the Fulton County Health Department.
 - e. In no case shall there be more than three (3) dwellings per parcel.
7. No building shall be erected or structurally altered to the extent specifically provided hereinafter, except in conformity with the off-street parking and loading regulations of this ordinance.
8. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.
9. All inhabited mobile homes located within Fulton County must be built after June 15, 1976 and bear the HUD Seal of Approval, and must conform to the

requirements of Section 5 of this ordinance, unless they are otherwise permitted by local ordinances, or unless they are located in a mobile home park that has received a conditional use permit as required by section 5-B.

SECTION 4

USE REGULATIONS

A. **DISTRICT REGULATIONS:** In the following established districts, a building or premise shall be used only for the following purposes:

1. **AC - Agriculture/Conservation District**

a. Permissive Uses

- (1) Agricultural activities.
- (2) Single family dwelling.
- (3) Mobile home with a minimum size of 500 square feet of living area.
- (4) Non-commercial recreational activities.
- (5) Public Park or recreation area.
- (6) Church.
- (7) Cemetery (if adjacent to and affiliated with a church).
- (8) Greenhouse or nursery (and associated shop).
- (9) Conservation Area or Forest Preserve.
- (10) Bed and Breakfast Home stay.
- (11) Reclamation of strip-mined lands in accordance with a reclamation plan approved by the County Board, after public hearing and recommendation by the Zoning Board of Appeals.
- (12) Public school, elementary and high, or private school having a curriculum equivalent to a public elementary or high school, and having no rooms regularly used for housing or sleeping purposes.
- (13) Hunting clubs without improvements.

b. Conditional Uses

- (1) Two family dwellings.
- (2) Extraction of coal, sand and gravel.
- (3) Airport - public or private.
- (4) Public building (erected or leased by governmental agency).
- (5) Enlargement of existing cemetery.
- (6) New cemetery (on a minimum of 20 acres).
- (7) Hospital, nursing home, medical clinic, educational/religious or philanthropic institution.
- (8) Feed lot, large-scale animal shipping facility, large scale hatchery or poultry or hog operation (but not including slaughtering or dressing operation).
- (9) Fertilizer or liquid petroleum products storage plant operations (requires approval of County Health Officer on any location or expansion, with particular reference to populous areas, prevailing wind direction and

- traffic problems).
- (10) Privately operated, for profit outdoor recreational facility on site of not less than five acres.
 - (11) Private clubs - such as fraternal organizations, veteran organizations, or country clubs. To include clubhouses and incidental facilities, such as restaurant, sport facilities, incidental sales and services.
 - (12) Mobile home park in accordance with provisions of section 5, and located within 1-1/2 miles of an incorporated city or village.
 - (13) Group homes/shelters.
 - (14) Heliport.
 - (15) Nursery, pre-kindergarten, special or play school.
 - (16) Hunting clubs with improvements.
 - (17) Trucking company or trucking terminal.
 - (18) Implement dealership.
 - (19) Off-highway vehicle parks as contemplated by the Recreational Trails of Illinois Act, recreational vehicle parks, and/or camper parks and the conditions they would be subject to:
 - a. Reserved.
 - b. A detailed site plan drawn to scale (one inch equals 200 feet) showing:
 - i. Drainage plan and topography.
 - ii. Location of existing and proposed wells and sewage disposal systems.
 - iii. Location of tracks, trails, or thoroughfares.
 - iv. Location of Park facilities (i.e. office, playground, parking, fire extinguisher, and the like.)
 - v. Traffic Pattern in and out. Location of entrances and exits.
 - c. Conditions for Operation:
 - i. Dust suppression if necessary.
 - ii. Hours and days to be used.
 - iii. Tracks, trails, thoroughfares, or roadways must be located 1,320 feet from nearest occupied residence at the time of construction, excepting entrance and exit roads.
 - iv. Entrance and exits to be located 330 feet from the nearest occupied residence at the time of construction.
 - v. Noise level to be at or under IL Environmental Protection Agency standards and measured by developer prior to establishing facility.
 - vi. Developer and operator will be held to plan approved by the Zoning Board of Appeals.
 - d. Where the recreational vehicle park abuts or adjoins a residential or business district there shall be a buffer strip not less than 20 feet wide with noise abatement barrier at least six feet high which shall not be used for parking.
 - e. Water and sewage systems must be approved by the County

Health Department.

- f. Said park shall be used by patrons having other residences.
 - g. The Zoning Board of Appeals has the authority to waive enforcement of any of the above conditions under b. (19) b. or c. upon its determination that there is no appropriate zoning purpose served by any such condition for off-highway vehicle parks which are designed for and used solely for off-highway recreational trails as contemplated by the Recreational Trails of Illinois Act.
- (20) Other appropriate use that is agriculture in nature.
 - (21) Mini storage facilities on a plot of not less than one acre.

2. **R-1 - Residential District**

a. permissive Uses

- (1) Single family dwelling.
- (2) Two family dwelling.
- (3) Cemetery (if adjacent to and affiliated with a church).
- (4) Public park or playground.
- (5) Bed and Breakfast Home stay.
- (6) Church.
- (7) Public school, elementary and high, or private school having a curriculum equivalent to a public elementary or high school, and having no rooms regularly used for housing or sleeping purposes.
- (8) Mobile home with a minimum of 24 feet manufactured width.

b. Conditional Uses

- (9) Public buildings erected or leased by any governmental agency.
- (10) Greenhouse or nursery (and associated shop).
- (11) Heliport.
- (12) Parking lot, if located within 300 feet of a "B" or "I" District.
- (13) Nursery, pre-kindergarten, special or play school.
- (14) Hospital, nursing home, medical clinic, educational/religious or philanthropic institution.
- (15) Enlargement of an existing cemetery.
- (16) Craft shop in existing building.
- (17) Other appropriate use that does not detract from the residential area.

3. **R-2 - Residential District**

a. Permissive Uses

- (1) Any permissive use of the R-1 district.
- (2) Multi-family dwellings, up to and including four-family dwellings.
- (3) Boardinghouse/rooming house.

- (4) Mobile home with a minimum of 14 feet manufactured width.

b. Conditional Uses

- (1) Public building erected or leased by any governmental agency.
- (2) Greenhouse or nursery.
- (3) Heliport.
- (4) Parking lot if located within 300 feet of a “B” or “I” District.
- (5) Group homes/shelter homes.
- (6) Apartment buildings/complexes with five or more dwelling units.
- (7) Nursery, pre-kindergarten, special or play school.
- (8) Hospital, nursing home, medical clinic, educational/religious or philanthropic institution.
- (9) Enlargement of an existing cemetery.
- (10) Mobile home park in accordance with provisions of section 5.

4. B - Business District

a. Permissive Uses

- (1) Any permissive use of the R-2 District.
- (2) Bed and Breakfast Inn.
- (3) Hotel or motel.
- (4) Automobile sales parking lot.
- (5) Commercial garage or auto mechanic shop or auto service station (does not include auto-body work).
- (6) Farm implement or agricultural service establishment, including feed and bottle gas.
- (7) Bank, bowling alley, dance hall, skating rink, or other business of a similar nature.
- (8) Retail store, including florist shop and greenhouse in connection with florist shop.
- (9) Dressmaking, tailoring, shoe repair, bicycle repair, repair of household appliances, dry cleaning and pressing, bakery with sale of bakery products on the premises, and other uses of a similar character.
- (10) Funeral home or mortuary.
- (11) Office or office building.
- (12) Personal service use, including barber shop, beauty shop, photographic or artist's studio, taxicab, newspaper or telegraphic service station, and other personal service uses of a similar character.
- (13) Theater, drive-in theater or assembly hall.
- (14) Truck or bus terminal.

- (15) Restaurant and/or tavern, including drive through/pick-up restaurants.
- (16) Parking lot.
- (17) Nursery, pre-kindergarten, special or play school.
- (18) Hospital, nursing home, medical clinic, educational/religious or

- philanthropic institution.
- (19) Outdoor recreational facilities, such as golf course, miniature golf, driving range, skiing, tennis, swimming, etc.
- (20) Television, radio, and other communication type stations.
- (21) Mini-storage facilities.

b. Conditional Uses

- (1) Public Building erected or leased by any Governmental agency.
- (2) Heliport.
- (3) Mobile Home Park in accordance with provisions of Section 5.
- (4) Adult Uses, subject to special regulations specified in Section 14.

5. I - Industrial District

a. Permissive Uses

- (1) Any non-residential, non-lodging, and non educational use permitted in the "B" District.
- (2) Compounding of cosmetics, toiletries, drugs and pharmaceutical products.
- (3) Manufacture or assembly of boats, bolts, nuts, screws, rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery and hardware products, sheet metal products and vitreous enameled metal products.
- (4) Manufacture or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus.
- (5) Manufacture or storage of food products, including beverage blending or bottling, bakery products, candy manufacture, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but no distilling of beverages or slaughtering of poultry or animals.
- (6) Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, and printing and finishing of textiles and fibers into fabric goods.
- (7) Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of a similar nature.
- (8) Generally those light manufacturing uses similar to those listed in items above which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, smoke, dust, lint, odors, heat, vibration or glare than that which is generally associated with light industries of the type specifically permitted.

b. Conditional Uses

- (1) Acid manufacture.

- (2) Distillation of bones.
- (3) Explosives, manufacture or storage.
- (4) Fat rendering.
- (5) Fertilizer manufacture.
- (6) Garbage, refuse, offal or dead animal reduction, dumping, storing, loading or unloading.
- (7) Glue manufacture.
- (8) Junkyard and salvage yard.
- (9) Stockyard or slaughter of animals.
- (10) Wholesale storage of gasoline.
- (11) Adult uses, subject to special regulations specified in Section 14.
- (12) Any similar use that would be hazardous to the public health, safety or welfare.

SECTION 5

MOBILE HOME REGULATIONS

A. REGULATIONS REGARDING MOBILE HOMES SHALL BE AS FOLLOWS:

1. Homes must be built after June 15, 1976 and bear the HUD Seal of Approval.
2. Homes must have skirting consisting of brick, block, pressure-treated wood or other materials that are both durable and permanently affixed. Must provide for maintenance and adequate ventilation.
3. Homes must have certified anchors as required by state law. (Department of Public Health.)
4. Homes must have satisfactory connections to water, sewer, and electrical facilities.
5. Wheels, axles, hitches, brakes and running lights must be removed upon placement on site.
6. The following size is required for each district:

AC	No minimum width (minimum of 500 square feet of living area.).
R-1	minimum of 24 feet manufactured width.
R-2	minimum of 14 feet manufactured width.
B	minimum of 14 feet manufactured width.
I	dwellings prohibited.
7. Mobile homes may not be used as accessory buildings.
8. These regulations do not apply to mobile home parks, unless required by the individual park owner.
9. Any existing mobile home (outside a mobile home park) which is moved, cannot be replaced with another mobile home except in compliance with the regulations of section 5 of this Ordinance.

B. MOBILE HOME PARKS SHALL MEET THE FOLLOWING MINIMUM STANDARDS:

1. Each lot provided for the occupancy of a single mobile home unit shall have an area of not less than 5,000 square feet and a width of not less than 50 feet.
2. No mobile home park shall be permitted an average density of lots of more than eight per acre.

3. Each mobile home park shall provide an area of not less than 10 acres. Expansion of existing parks, with proper zoning and permits, will be allowed to expand if gross area of existing park and expansion shall equal or exceed 10 acres. All such expansions shall conform to all other minimum standards contained within this Ordinance.
4. All mobile home parks shall provide lots sufficient in size that no mobile home or any structure, addition or appurtenance thereto is located less than 10 feet from the nearest adjacent court boundary.
5. Space between mobile homes may be used for the parking of motor vehicles if the space is clearly designated and the vehicle is parked at least 10 feet from the nearest adjacent court boundary.
6. Each mobile home site shall abut or face a clear unoccupied space, driveway, roadway, or street of not less than 20 feet in width, which shall have unobstructed access to a public highway, street or alley.
7. The mobile home park shall be surrounded by a landscaped strip of open space 50 feet wide along all other lot lines or street frontage.

SECTION 6

ACCESSORY BUILDINGS AND STRUCTURES

A. THERE SHALL BE THE FOLLOWING REGULATIONS FOR ACCESSORY BUILDINGS/STRUCTURES:

1. No accessory building or structure shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building or structure shall be used unless the main building on the lot is also being used, with the following exceptions:
 - a. Nothing shall prevent the use of a temporary construction shed or road wagon for the storage of tools, material and equipment by a contractor during building construction.
 - b. One small storage building may be located in the rear yard of a vacant lot provided it be at least five feet from any property line, and receive a special exception from the Zoning Board of Appeals, as per section 15B-2b.
 - c. Accessory buildings may be located on a vacant lot which is under the same ownership and is actually adjoining the lot where the main building is located without Zoning Board approval, and providing it meets all other applicable requirements of an accessory building.
2. No accessory building may be erected in front of a main building unless the accessory building is attached to the main building by a common wall.
3. Accessory buildings that are five feet or more from the main building may be located in a side or rear yard, but must be located at least two feet from the side or rear lot line.
4. Accessory buildings that are less than five feet from the main building must meet the same setback requirements as the main building.
5. Where a garage is entered from an alley, it must be kept at least 10 feet from the alley line.
6. Accessory buildings may not be used for dwelling purposes.
7. Swimming pools more than three feet high, or swimming pools more than 12 feet in diameter must meet the same requirements as all other accessory structures.

B. BUILDING PERMITS WILL NOT BE REQUIRED FOR THE FOLLOWING ACCESSORY STRUCTURES:

1. Small accessory buildings which are no larger than 100 square feet in size, and are located at least five feet from any property line, may be located in a side or rear yard without obtaining a building permit. (Except on vacant lots - see section 15B-2b).
2. In the AC District, accessory buildings which are used only for agricultural purposes and which are located at least 50 feet from all property lines will not require a building permit.
3. The following accessory structures may be located anywhere on a lot, providing that they are at least two feet from any property line and that they conform to all other applicable regulations:
 - a. accessory structures which are three feet high (or less)
 - b. accessory structures which are less than 30 per cent solid.
 - c. swimming pools which are no more than three feet high or 12 feet in diameter.

SECTION 7

FULTON COUNTY SIGN ORDINANCE

I. INTRODUCTION

A. Title

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Sign Ordinance.

B. Purpose

This Ordinance is adopted for the following purposes:

1. Promote the health and welfare of Fulton County residents.
2. Maintain and enhance the visual quality (aesthetics) of the County.
3. Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of the road and of directional or warning signs.
4. Protect and enhance economic viability by assuring that Fulton County will be a visually pleasant place to visit or live.
5. Protect property values and private/public investments in property.
6. Protect views of the natural landscape and sky.
7. Avoid personal injury and property damage from structurally unsafe signs.
8. Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.

II. DEFINITIONS

A. “Abandoned Sign” means;

1. Any Sign that does not display a well maintained message for a consecutive sixty (60) day period;
2. Any Sign the owner of which can not be located at Owner’s last address as reflected on the records of the Fulton County Zoning and Community Development Office; or

3. Any Sign no longer fully supported by the structure designed to support the sign.
- B. “Applicant” means any entity or person who submits to the County an application (building permit) to install or erect a sign.
- C. “Awning,” “Canopy,” or “Marquee Sign” means a sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below, or beyond the awning, canopy or marquee. No such sign shall be illuminated and shall indicate only the name and/or address of the establishment.
- D. “Billboard Sign” means a sign upon which advertising space is rented, leased, or purchased on a periodic basis and which is non-permanent in nature.
- E. “Bulletin Board Sign” means a sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
- F. “Business Sign” means a sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
- G. “Church Identification Sign” means a sign giving only the name and address of a church. Such signs may be wholly or partly devoted to a readily recognizable symbol.
- H. “County” means Fulton County, Illinois.
- I. “Direction Sign” means a sign on private property without commercial message that gives direction such as entrances, exits, or street numbers.
- J. “Elevated Sign” means any sign placed upon, or supported by, the ground independent of the principal structure on the property where the bottom edge of the sign is ten feet or more above the ground level.
- K. “Elevated Roof Sign” means a sign placed on the roof of a building or structure.
- L. “Government Sign” means a sign authorized by the County, a municipality, a governmental agency, the State of Illinois, or the Federal Government.
- M. “Ground Sign” means a sign supported by one or more uprights, pylons, or foundation elements in or upon the ground and not attached to a building.
- N. “Identification Sign” means a sign giving only the name and address of a structure, business development or establishment. Such signs may be wholly or partly devoted to a readily-recognized symbol.

- O. “Large Sign” means any sign larger than sixty-four (64) square feet in area on any side.
- P. “Memorial Sign” means a sign, monument or statue serving to help people remember some person or event.
- Q. “Monument sign” means a sign whose base is greater in width than the face of the sign, and whose height is no greater than six (6) feet.
- R. “Name Plate Sign” means a sign giving the name and/or address of the owner or occupant of a structure or premises on which it is located and, where applicable, a professional status.
- S. “Obscene” has the meaning set forth under 720 ILCS 5/11-20(b) of the Illinois Criminal Code.
- T. “Owner” means the person(s) or entity(ies) with an equity interest in a sign(s), including their respective successors, assigns, and heirs. Owner does not include a property owner from whom land is leased for locating a Sign (unless the property owner has an equity interest in the Sign).
- U. “Permit” means a Building Permit for a Sign issued by the Fulton County Zoning and Community Development Office.
- V. “Person” means any individual or entity, including a Firm, Partnership, Association, Corporation, Limited Liability Company, Trustee, and their legal successors.
- W. “Political Sign” means a sign relating to a candidate, political party, election, or other issue.
- X. “Portable Display Sign” means any movable display structure, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination and power, and with or without wheels.
- Y. “Projecting Sign” means a Sign affixed to any part of a building or structure which extends beyond the building or structure by more than twelve (12) inches.
- Z. “Public Indecency” has the meaning set forth under 720 ILCS 5/11-9 of the Illinois Criminal Code.
- AA. “Residential Neighborhood Identification Sign” means a Sign at the entrance of a residential neighborhood identifying the neighborhood.

- BB.** “Roof Sign” means a Sign erected, constructed, or maintained upon, or which projects above the roofline of a building.
- CC.** “Sign” means an object, including a structure, movable object, wall or image displaying any message visible to the public. No sign shall have more than three (3) faces used to present advertising. Notices legally placed on public property and removed on a daily basis are not considered Signs.
- DD.** “Special Event Sign” means a Sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events.
- EE.** “Temporary Construction Sign” means a temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex, or project only during the construction period and only on the premises on which the construction is taking place.
- FF.** “Temporary Real Estate Sign” means a temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
- GG.** “Temporary Sign” means a display sign that is limited in use by the duration of an event, including real estate, construction, seasonal sale of produce and political campaign signs.
- HH.** “Wall Sign” means a sign attached to, painted upon, placed against, or supported by the exterior surface of any building.
- II.** “Wetland” means land that based on soils and vegetation has been classified as “wetland” by a government agency.
- JJ.** “Window Sign” means any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- KK.** “Zoning Officer” means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

Fulton County, Illinois has been granted authority to regulate Signs by the State of Illinois under 55 ILCS 5/5-12001 as “structures.” Any sign, shall be a structure. No land, personal property or structure shall be used for sign purposes except as specified herein.

IV. APPLICABILITY

- A.** A sign lawfully established before the effective date of this ordinance, but not conforming to the regulations of this ordinance, may be continued until such time that it is substantially altered. Repair and maintenance and change of display of a bulletin board sign and change of advertisers on a billboard sign shall be permitted. In addition, any such sign, which must at any time, be moved by reason of road repairs or utility work may be permanently or temporarily relocated within five-hundred (500) feet of the first location. If relocated beyond the term of construction work, the sign shall meet requirements of the ordinance. Any sign removed for construction work must be relocated within one hundred twenty (120) days or a new sign permit shall be required.
- B.** Every sign or other advertising structure lawfully in existence on the adoption of this code shall not be altered or moved unless it be made to comply with the provisions of this article, except as otherwise provided for herein.
- C.** Should any nonconforming sign be damaged by any means to an extent of more than fifty (50%) percent of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of these regulations.

 - 1.** Removal of non-Billboard Signs: All non-Billboard nonconforming signs not otherwise prohibited by the provisions of these regulations shall be removed or shall be altered to conform to the provisions of these regulations:

 - a.** when the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend, or;
 - b.** when the name of the business changes and the sign is changed or modified either in shape, size, or legend.
 - 2.** Removal of signs upon destruction of principal structures: When a principal structure is destroyed or removed due to natural or man-made circumstances, all signs on the property shall be removed within ninety (90) days, unless a building permit has been issued to replace the structure within said time period.

V. PROHIBITION

No sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit, and a sign shall be considered legal only when in compliance with this sign

regulation. All signs shall be constructed in such a manner and of such material that they are safe and substantial.

VI. FEES

Fees for Signs and Building Permits shall be set by the Fulton County Board and included in the Fulton County Zoning Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SIGN PERMITTING PROCESS

No sign except those listed in Section **XI**. may be erected or altered until a sign permit has been issued by the Fulton County Zoning and Community Development Director.

A. A complete Fulton County Building Permit Application shall be submitted to the Fulton County Zoning and Community Development Director.

B. The permit application shall include the following information:

- 1.** The name and address of the applicant and the sign contractor who will be performing the work.
- 2.** The location, by street address, of the building or structure to which the sign is to be attached or the lot on which the sign is to be erected.
- 3.** A set of plans and specifications showing the location, support, attachment to the building or ground, method of illumination, and lighting intensity; and
- 4.** A sketch showing the sign faces, exposed surfaces, and proposed message accurately represented in scale as to size and proportion and showing, if the sign is to be attached to a building, the sign on the facade of the building.

C. Review and Action: The Fulton County Zoning and Community Development Director shall review the sign permit application to determine whether the proposed sign complies with all the applicable sign regulations of this article. Within ten (10) business days of the submission of a complete application for a sign permit, the Fulton County Zoning and Community Development Director shall either:

- 1.** Issue the sign permit, if the sign complies in every respect with the standards of this Article, if applicable ; or
- 2.** Deny the sign permit if the sign fails in any way to comply with the standards of this Article. The Fulton County Zoning and Community Development Director shall specify all reasons for the denial.

- D. Inspection: Prior to installation of a sign a stakeout inspection shall be required to see if the sign meets the requirements of this article. The permittee shall notify the Zoning Officer who shall inspect such stakeout site and approve the same if it is in compliance with the provisions of this article. The Zoning Officer may, from time to time, as he/she deems necessary, inspect all signs regulated by this article for the purpose of ascertaining whether the same is secure or insecure or whether it is in need of removal or repair.
- E. Obstruction: A sign erected in any district shall not be constructed and/or maintained so as to obstruct any fire escape, window, door, or opening used as a means of entrance or egress for fire-fighting purposes, or so as to prevent free passage from one part of a roof to any other part thereof or to another roof.
- F. Permit Expiration: Every sign permit issued shall become null and void if installation is not commenced within ninety (90) days from the date of approval of such permit.
- G. The Zoning Committee and Zoning Board of Appeals shall have the discretion to waive any sign permit fee if evidence is provided along with the permit application showing that the sign to be erected is for the sole benefit of a charitable or non-profit organization.

VIII. GENERAL STANDARDS:

- A. Property directly abutting a state or federal highway may have signage as allowed by the State of Illinois Department of Transportation and the applicant shall provide a copy of approval from the Illinois Department of Transportation to the Fulton County Zoning and Community Development Director.
- B. Gross Area of Sign: Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one (1) side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.
- C. Sign Height: Sign height shall be measured from the elevation of the top of the nearest curb or existing ground level to the highest element of the sign.
- D. Illuminated Signs: A sign designed to give forth artificial light or designed to reflect light derived from any source.
 - 1. Illuminated signs shall be designed so that light is reflected or directed away from any residential dwelling district. Any illuminated sign located

on a lot adjacent to, in front of or across the street from any residential district, shall not be illuminated between the hours of 11:00 p.m. and 7 a.m. when such sign is visible from said residential district.

2. Illuminated signs which happen to lie in direct vision behind a traffic signal shall not be in red, amber, or green illumination.
 3. Signs shall be illuminated only by steady, stationary, shielded, or shaded light sources directed solely at the sign or internal to it so that the light intensity, or brightness does not create either a nuisance to adjacent property or a traffic hazard for motorists or pedestrians.
 4. Except where a combination of individual exposed bulbs displays information, such as time, temperature, or date illuminated signs; no exposed reflective-type bulb and no strobe light or unshielded incandescent lamp shall be used on the exterior surface of any sign.
- E. Flashing or Moving Signs:** For the purpose of this regulation, any sign that is revolving, rotating, moving, animated, has moving lights, or creates the illusion of movement shall be considered a moving sign. Any illuminated sign on which the artificial light is not constant in intensity and color at all times is considered a flashing sign.
1. Flashing signs shall not be permitted which are in any way similar to traffic signals or emergency vehicle lights.
 2. A sign which displays the current time and/or temperature by use of intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages. Such sign shall not in any case exceed sixty-four (64) square feet in area.
 3. Signs designed to change sign faces periodically throughout the day, commonly known as “tri-vision signs” shall not be considered a moving sign.
- F. Signs on Trees or Utility Poles:** No sign shall be attached to any utility pole or tree.
- G. Lineal Street Frontage:** In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one (1) street, the lineal street frontage shall be computed as the sum of all the street frontages.
- H. Large Signs** may be established within “AC” Agricultural, “B” Business, or “I” Industrial zones provided that they meet the following conditions:

1. Not more than five (5) Large Signs may be located per linear mile of street or highway regardless of the fact that such large signs may be located on different sides of the subject street or highway.
2. No large sign shall be located within one-thousand (1000) feet of another large sign abutting either side of the same street or highway.
3. No large sign shall be located within two-hundred (200) feet of a residential zone and/or existing residence. If the large sign is illuminated, this required distance shall be increased to three-hundred (300) feet.
4. No large sign shall be located closer than twenty-five (25) feet from the property line it is facing. Setbacks shall be measured from the surface display area to the vertical extension of the property line.
5. The surface display area of any side of a large sign may not exceed four-hundred (400) square feet. In the case of large sign structures with multiple advertising, the combined surface display area of any face shall not exceed four-hundred (400) square feet.
6. The height of a large sign shall not exceed forty-five (45) feet above the grade of the ground on which the advertising sign sits or the grade of the abutting roadway, whichever is higher.
7. A large sign may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any large sign have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
8. A large sign must be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A large sign must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
9. A large sign established within "AC" Agricultural, "B" Business, or "I" Industrial zones, as defined in the "Highway Advertising Act of 1972" (1972 PA 106, as amended) bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions, also comply with all applicable provisions provided thereunder as may from time to time be amended.
10. All large signs shall have a surety bond of appropriate amount posted at the time of the permit application to insure that the signage is appropriately decommissioned once past its useful life.

IX. EXEMPTIONS:

- A. Total Exemptions:** The following signs shall be exempt from the requirements of this article, except that such signs shall comply with appropriate setback requirements as specified in this ordinance. Such signs shall not be illuminated, but may be of the beaded reflector type upon approval thereof by Fulton County Zoning and Community Development Director. Such signs shall be of the types and contain only such displays as follows:
1. Temporary signs displaying the name, location, and time of an event of public interest such as a State or County Fair, public or general election, provided such sign shall not interfere with the full view of traffic in all directions. Such sign shall be removed not more than five (5) days after the event.
 2. Flags not larger than thirty-two (32) square feet displayed on private property.
 3. Any flag displayed by a government body.
 4. Signs of a duly constituted governmental body, such as street signs, traffic and regulatory signs, etc.
 5. Warnings at railroad crossings, and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
 6. Small signs, not exceeding three (3) square feet in area displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one way drives, restrooms, freight entrances and other similar signs.
 7. Scoreboards and signs located inside athletic stadiums.
 8. Signs for the sale of household goods at a residence (for example, garage sales or auctions) for a period not to exceed five (5) days in any calendar month, and not exceeding thirty-two (32) square feet in area.
 9. Real estate signs not exceeding thirty-two (32) square feet in area.
 10. Construction signs not exceeding thirty-two (32) square feet in area.
 11. Political Signs related to a specific election are allowed to be erected for a period not to exceed ninety (90) consecutive days, and not exceeding thirty-two (32) square feet in area. Political Signs shall be removed within five (5) days after the election.

- B. Exemptions from Sign Permit: Window signs not exceeding twenty-five (25%) percent of the window surface in “AC” Agricultural/Conservation, “B” Business, and “I” Industrial districts shall be exempt from the sign permit section of this article, but shall comply with all of the other regulations imposed by this article.

X. PROHIBITED SIGNS.

- A. Any sign installed or placed on public property or right-of-way shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the County shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- B. Obscene or Indecent Advertisement: No person shall display upon any sign, or other advertising structure, any obscene or indecent matter.
- C. Elevated roof signs.
- D. Projecting signs.

XI. TEMPORARY SIGNS.

Temporary signs shall be erected and maintained in a safe and attractive manner and shall be subject to applicable regulations, except as specifically modified herein.

- A. Real Estate Signs shall be removed within one (1) week of the date of sale, rental, or lease.
- B. Temporary Construction Signs shall be no larger than sixty-four (64) square feet. Such signs are subject to yard area requirements and may be erected at the start of construction and shall be removed upon project completion.
- C. Portable display signs shall be allowed on a lot not more than two (2) times in a calendar year, and not to exceed fourteen (14) days for each occurrence.
- D. Seasonal sale of produce signs.

XII. MAINTENANCE.

- A. All signs shall be maintained in a safe condition and in such a manner that they shall not become a visual detriment to the community at large. The Fulton County Zoning and Community Development Director shall be charged with the responsibility and authority to inspect all signs and direct the maintenance of said signs. Maintenance of signs is defined as keeping sign structures in a safe condition, free of rust, with broken glass or plastic replaced, electrical lights and other electrical operations in operable condition, letters and other sign components in the equivalent condition as on the sign permit or as approved.

- B. Should the Fulton County Zoning and Community Development Director find a non-maintained sign as defined above, he/she shall cause the owner(s) of said sign(s) to be notified as to the deficiency and the corrective action that is required.
- C. Should the owner fail to exhibit evidence of compliance within thirty (30) days after the mailing of the letter of notification, the Fulton County Zoning and Community Development Director shall cause the owner to be cited for violation of this regulation, according to Section 20, subsection B, of the Fulton County Zoning Ordinance.

XIII. SIGN STANDARDS

Sign types not identified in a zoning district as permitted are not allowed in such zoning district unless otherwise expressly permitted by other regulations of this Zoning Ordinance.

A. “AC” Agricultural Conservation District:

- 1. Number of Signs Permitted: There shall not be more than one (1) sign per lot, except that on a corner lot two (2) signs, one (1) facing each street shall be permitted.
- 2. Maximum Gross Surface Area:
 - a. Bulletin Board fifty (50) sq. ft.
 - b. Business Sign thirty-two (32) sq. ft.
 - c. Identification Sign four (4) sq. ft.
 - d. Church Identification Sign thirty-two (32) sq. ft.
 - e. Name Plate Sign four (4) sq. ft.
 - f. Temporary Sign As regulated by Temporary Signs in section **XI**.
- 3. Maximum Height: Forty-five (45) feet, except when an elevated sign is located within three-thousand (3,000) feet of the center of a federal aid interstate highway interchange in which case said elevated sign shall not exceed seventy (70) feet
- 4. Required Setback: No sign shall be placed closer to any lot line than five (5) feet, but shall not encroach into or be located within a corner visibility zone.
- 5. Projection: No sign shall project beyond the property line into a public way.

B. “R1” and “R2” Residential Districts:

1. Number of Signs Permitted: There shall not be more than one (1) sign per lot, except that on a corner lot two (2) signs, one (1) facing each street shall be permitted.
2. Maximum Gross Surface Area:
 - a. Church Identification Sign thirty-two (32) sq. ft.
 - b. Name Plate Sign four (4) sq. ft.
 - c. Temporary Sign As regulated by Temporary Signs in section **XI**.
3. Maximum Height: One (1) story or fifteen (15) feet above curb level, or if no curb, street level, whichever is lower.
4. Required Setback: Five (5) feet from all property lines, but shall not encroach into or be located within a corner visibility zone.
5. Projection: No sign shall project beyond the property line into the public way.

C. "B" Business District:

1. Number of Signs Permitted:
 - a. All permitted functional sign types: One (1) per zoning lot and two (2) on a corner lot with one sign facing each street.
 - b. Awning, canopy or marquee, and window signs: No limitations.
 - c. Ground, monument, projecting, wall, and roof signs: One (1) per zoning lot.
2. Maximum Gross Surface Area: The gross surface area of all signs on a lot shall not exceed six times the lineal feet of street frontage of such lot, and on corner lots or through lots, each lot line abutting a street shall be considered a separate frontage; except as modified by Temporary Signs in Section **XI**.
3. Maximum Height: Forty-five (45) feet, except an elevated sign located within three-thousand (3,000) feet of the center of a federal aid interstate highway interchange shall not exceed seventy (70) feet.
4. Required Setback: A ground, monument, or portable display sign shall be located not less than five (5) feet from any lot line.
5. Illumination: Illuminated signs shall be permitted.

6. Projection: A business sign attached to a building wall shall not project therefrom more than six (6) feet and an advertising sign attached to a building wall shall not project therefrom more than eighteen (18) inches.

D. "I" Industrial District:

1. Number of Signs Permitted:

- a. All permitted functional sign types: One (1) per zoning lot and two (2) on a corner lot with one sign facing each street.
 - b. Awning, canopy or marquee, and window signs: No limitations.
 - c. Ground, monument, projecting, wall, and roof signs: One (1) per zoning lot.
 - d. Elevated Signs: One (1) per business located on a platted lot which is no more than one-hundred (100) feet from the intersection of a federal aid highway right-of-way and a perpendicular local street.
2. Maximum Gross Surface Area: The total gross area in square feet of all signs on a lot shall not exceed 6 times the lineal feet of street frontage of such lot, except as modified by Temporary signs in Section XI.
 3. Maximum Height: Forty-five (45) feet, except an elevated sign located within three-thousand (3,000) feet of the center of a federal aid interstate highway interchange shall not exceed seventy (70) feet.
 4. Required Setback: No sign shall be placed closer to any lot line than 5 feet.
 5. Projection: Projecting signs shall be affixed flat against the building walls and may project therefrom not more than eighteen (18) inches.
 6. Illumination: Illuminated signs shall be permitted.

XIV. PUBLIC PARTICIPATION

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XV. REMEDIES

- A. The Owners' failure to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.

- B.** Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first attempt to notify the Applicant, Owner(s), and Operator(s), at the last known address, setting forth the alleged default(s). Such written notice shall provide the Applicant, Owner(s), and Operator(s) a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

- C.** If the County Board determines that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County Ordinance provisions addressing the resolution of such default(s) shall govern, Sign permit(s) shall be revoked, and decommissioning shall be completed within six (6) months.

SECTION 8

FENCE REGULATIONS

A. REGULATIONS REGARDING FENCES SHALL BE AS FOLLOWS:

1. No fence more than 30 per cent solid and no fence more than three feet high may be located within 30 feet of a street intersection.
2. Except as provided in #1 above, fences three feet (or less) may be located on any part of a lot.
3. Except as provided in #1 above, fences six feet (or less) may be located on those parts of a lot that are as far back, or farther back from the street, as the main building.
4. Except as provided in #1 above, fences erected in the AC District and the I District may be erected more than six feet, but not more than eight feet high.
5. Although fences must be in compliance with the above regulations, a building permit will not be required unless the property is located in the flood plain.

SECTION 9

HEIGHT REGULATIONS

A. MAXIMUM HEIGHT LIMITS ESTABLISHED FOR BUILDINGS AND STRUCTURES ARE AS FOLLOWS:

1. 35 feet in the R-1 and R-2 Districts.
2. 45 feet in the AC, B and I Districts.
3. Any structure exceeding the height limits set forth above may be authorized by the Zoning Board of Appeals.

SECTION 9.1

SMALL WIND ENERGY SYSTEMS

I. INTRODUCTION

A. *Title*

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Small Wind Energy Siting Ordinance.

B. *Purpose*

This Ordinance is adopted for the following purposes:

1. To provide a regulatory scheme for the construction and operation of Small Wind Energy Conversion Systems (WECS) in Fulton County, Illinois, subject to reasonable restrictions intended to preserve the public health and safety.
2. To assure that any development and production of wind-generated energy in Fulton County is safe and effective;
3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

- A. "Applicant" means any person or entity who submits to the County an application (building permit) for the siting of a Small WECS.
- B. "County" means Fulton County, Illinois.
- C. "DoA" means State of Illinois, Department of Transportation, Division of Aeronautics.
- D. "FAA" means Federal Aviation Administration.
- E. "Guy Wire" means any wire or cable that extends from a small WECS for the purpose of supporting the WECS structure.
- F. "Inoperable" means a Small WECS that has not generated power within the preceding ninety (90) days or has been deemed unsafe by the County Zoning Officer, with the exception of the construction phase which shall last no more than

six (6) months. If a Small WECS is deemed inoperable by the County Zoning Officer, repair or removal of the Small WECS must be completed within forty-five (45) days.

- G.** “IPCB” means Illinois Pollution Control Board
- H.** “MET Tower” means a meteorological tower used for the measurement of wind speed.
- I.** “Owner” means the person owning the land on which the small WECS is located. If a person or entity other than the Owner wishes to erect a small WECS on land that is rented or leased, the Owner must file a document with the Fulton County Clerk’s Office stating that the Owner, their successors, assigns, and/or heirs, accept financial responsibility for the Small WECS and its removal when it becomes Inoperable.
- J.** “Professional Engineer” means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- K.** “Small WECS” means a WECS having a WECS Height of less than one hundred seventy (170) feet and/or output of less than 100 kilowatts (KW), and used to offset energy usage of a private property with no intent to generate energy as a commercial venture.
- L.** “Wind Energy Conversion System” (“WECS”) means all structures and devices that together convert wind energy into any other form of energy.
- M.** “WECS Tower” means the support structure to which the energy producing assembly is attached.
- N.** “WECS Height” means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- O.** “Zoning Officer” means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

- A.** Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as “electric-generating wind devices.”
- B.** Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as “structures.”

IV. APPLICABILITY

This Ordinance governs the siting of Small WECS constructed after the effective date of this Ordinance. Small WECS legally installed prior to the date of this Ordinance are exempted until such time as:

- A.** any pre-existing Small WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.
- B.** any modification or alteration is made to pre-existing Small WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

No Small WECS shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each Small WECS pursuant to this Ordinance.

VI. FEES

Fees for Small WECS siting approval and building permits shall be included in the Fulton County Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SITING APPROVAL APPLICATION

- A.** All Small WECS(s) shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XI).
- B.** To obtain siting approval for a Small WECS, the Applicant or Owner must first submit a building permit application to the Fulton County Zoning Officer.
- C.** The siting approval application shall contain or be accompanied by the following information:
 - 1.** a general description of the Small WECS, including the rated generating capacity, the potential equipment manufacturer, type of Small WECS, the type and height of the Small WECS Tower, the diameter of the Small WECS rotor, the proposed Small WECS Height, the location of proposed installation, the name(s), address(es), and phone number(s) of the Owner(s).
 - a.** The Applicant or Owner shall provide evidence that the weight of the proposed energy producing assembly to be placed atop the Small WECS Tower does not exceed the rated capacity of the proposed Small WECS Tower.

2. A site drawing showing the planned location of the Small WECS, tower base and footings, guy wire anchors, property lines (including identification of adjoining properties), inhabited structures within one-half (½) mile of the proposed Small WECS location, setback lines, public roads, railroads, overhead utilities, and all structures within one and one-half (1.5) times the Small WECS Height.
 3. The Owner of a Small WECS is responsible to provide any other information required by the County as part of its zoning process.
- D. The Applicant or Owner shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

VIII. DESIGN AND INSTALLATION

A. *Color*

Small WECS towers, generators, nacelles, blades, etc., shall be painted a non-obtrusive neutral color (e.g., light environmental color such as white, gray, or beige) that is non-reflective, shall not have any flags, streamers, banners, or decorative items attached at any time, and shall contain no message beyond warning placards, the name of the owner, and/or the name of the Small WECS manufacturer.

B. *Compliance with the Federal Aviation Administration*

The Owner of a Small WECS is responsible to ensure that the Small WECS complies with all applicable FAA and DoA regulations.

C. *Safety and Security*

1. The County Zoning Officer is granted the right of entry onto the site of the Small WECS, pursuant to reasonable notice (or attempt to notify), to perform safety inspections.
2. Each Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blades within the design limits of the rotor. Mechanical brakes shall be operated in a fail-safe mode.
3. All Small WECS shall be grounded according to the appropriate provisions of the National Electric Code.
4. All electrical components of the Small WECS shall conform to all applicable local, state, and national codes, and shall be installed in compliance with the National Electric Code.

5. The blade tip of any horizontal axis Small WECS shall, at its lowest point, have ground clearance of not less than fifteen (15) feet.
6. Small WECS towers shall not be climbable up to twelve (12) feet above ground level, or shall be enclosed by a fence at least eight (8) feet in height.
 - a. If fencing is used to secure the Small WECS, all gates shall be lockable and kept locked except when the Owner or his agent are immediately present.

D. *Setbacks*

1. All Small WECS Towers shall be set back one and one-half (1.5) times the Small WECS Height from all adjacent property lines, road right-of-ways, railroad right-of-ways, and overhead utility right-of-ways. The owner of adjacent property may waive this setback requirement, but in no case shall a Small WECS Tower be located closer to adjacent property than one and one-tenth (1.1) times the Small WECS Height. The Owner must obtain a variance from the County upon waiver of the above setback requirement. Any waiver of the above setback requirement shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.
2. Guy wires and guy wire anchors shall meet the setback requirements for accessory structures in the zoning district in which the Small WECS is located.
3. All Small WECS towers must be separated by a minimum distance equal to one and one-tenth (1.1) times the Small WECS height, based on the tallest Small WECS height involved.

E. *Zoning*

1. For purposes of land use and lot size, Small WECS shall only be installed:
 - a. in accordance with any existing Comprehensive Land Use Plan, and
 - b. on lands zoned AC or R1, and
 - c. on lots 1 acre or larger, or
 - d. if the County issues a Conditional Use permit for land use or lot size differing from that set forth in items **a**, **b**, or **c**.

F. *Compliance with Additional Regulations*

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

IX. OPERATION

A. *Maintenance*

1. Small WECS shall be maintained in such manner to insure the public health and safety. If the County Zoning Officer deems a Small WECS to be unsafe it will be the responsibility of the Owner to repair or remove the Small WECS within forty-five (45) days.

B. *Interference*

The Small WECS shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the Owner shall correct the problem within forty-five (45) days of being notified of the problem.

X. NOISE LEVELS

- A. Noise levels from each Small WECS shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. It is the Owner's responsibility to demonstrate compliance with IPCB noise requirements to the satisfaction of the County Zoning Officer.
- B. Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary on which the Small WECS is located.
- C. The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
- D. The County may impose noise limits lower than those required by the IPBC if it deems that lower noise levels are necessary to protect the public health, safety and welfare of the community.

XI. PUBLIC NOTICE AND PARTICIPATION

There shall be a Public Hearing held, with proper notice, by the Fulton County Zoning Board of Appeals prior to the permitting of any Small WECS(s). Not less than fifteen (15) days prior to the Public Hearing, the Small WECS Owner(s) shall send notice via U.S. Postal Service to all property owners with property located within five-hundred (500) feet of any property line of the property on which the proposed Small WECS will be located, notifying them of the

proposed Small WECS installation along with date, time, and place of the Public Hearing. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XII. REMOVAL

- A.** If a Small WECS is deemed Inoperable or unsafe by the County Zoning Officer it shall be repaired or removed within forty-five (45) days.
- B.** The County is granted the right to seek injunctive relief to effect complete removal, as well as the County's right to seek reimbursement from Owner's successors, assigns, or heirs for removal costs and to file a lien against any real estate owned by the Owner or Owner's successors, assigns, or heirs, or in which they have an interest, for the amount of the removal, and to take all steps allowed by law to enforce said lien.

XIII. REMEDIES

- A.** Failure by the Owner(s) to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.
- B.** Prior to implementation of the existing County procedures for the resolution of such default(s), the County Zoning Officer shall first provide written notice to the Owner, setting forth the alleged default(s). Such written notice shall provide the Owner a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C.** If the County Board determines that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County Ordinance provisions addressing the resolution of such default(s) shall govern and the Small WECS permit shall be revoked and the Small WECS shall be removed.

SECTION 9.2

LARGE WIND ENERGY SYSTEMS

I. INTRODUCTION

A. *Title*

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Large Wind Energy Siting Ordinance.

B. *Purpose*

This Ordinance is adopted for the following purposes:

1. To provide a regulatory scheme for the construction and operation of Large Wind Energy Conversion Systems (WECS) in Fulton County, Illinois, subject to reasonable restrictions intended to preserve the public health and safety.
2. To assure that any development and production of wind-generated energy in Fulton County is safe and effective;
3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

- A. "Abandoned" means a Large WECS that has not been properly tended and maintained for a period of six (6) months. If a Large WECS is determined by the Zoning Officer to be abandoned, decommissioning must be completed within six (6) months following the determination.
- B. "Applicant" means any entity or person who submits to the County an application (building permit) for the siting of any Large WECS, WECS Project, WECS Facility, MET Tower, or Substation.
- C. "County" means Fulton County, Illinois.
- D. "DoA" means State of Illinois, Department of Transportation, Division of Aeronautics.
- E. "FAA" means Federal Aviation Administration.

- F. “Financial Assurance” means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.
- G. “Guy Wire” means any wire or cable that extends from a WECS Tower for the purpose of supporting the WECS.
- H. “Inhabited Structure” means any structure where people commonly congregate for more than one (1) continuous hour at a time. Inhabited Structure excludes structures such as hunting blinds, storage sheds, pool houses, unattached garages and barns.
- I. “Inoperable” means a Large WECS that has not generated power within the preceding thirty (30) days. If a Large WECS is deemed inoperable by the County Zoning Officer, decommissioning must be completed within six (6) months.
- J. “IPCB” means Illinois Pollution Control Board
- K. “Large WECS” means any WECS with a WECS Height of one hundred seventy (170) feet or more, and/or rated output of 100 kilowatts (KW) or greater.
- L. “MET Tower” means a meteorological tower used for the measurement of wind speed.
- M. “Operator” means the entity responsible for the day-to-day operation and maintenance of the WECS Facility, including any third party subcontractors. The WECS facility Owner is responsible for all actions and conduct of the Operator(s).
- N. “Owner” means the entity or entities with an equity interest in the WECS(s), including their respective successors, assigns, and heirs.

Owner does not mean:

- 1. the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or
 - 2. any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- O. “Professional Engineer” means a qualified individual who is licensed as a professional engineer in the State of Illinois.
 - P. “Substation” means the apparatus that connects the energy collection system of the WECS(s) with a utility’s transmission lines.

- Q. “Wind Energy Conversion System” (“WECS”) means all structures and devices that together convert wind energy into any other form of energy.
- R. “WECS Facility” means all equipment, structures, substations, WECS(s), and properties as described in the WECS siting approval application.
- S. “WECS Project” means the collection of WECS(s) and Substation(s) as specified in the siting approval application.
- T. “WECS Tower” means the support structure to which the nacelle and rotor are attached.
- U. “WECS Height” means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- V. “Zoning Officer” means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

- A. Fulton County, Illinois has been granted authority to regulate Large WECS by the State of Illinois under 55 ILCS 5/5-12020 as “electric-generating wind devices.”
- B. Fulton County, Illinois has been granted authority to regulate Large WECS by the State of Illinois under 55 ILCS 5/5-12001 as “structures.”

IV. APPLICABILITY

This Ordinance governs the siting of Large WECS constructed after the effective date of this Ordinance. WECS which have been legally installed prior to the date of this Ordinance are exempted until such time as:

- A. any pre-existing WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the WECS must be brought into compliance with this Ordinance.
- B. any repair, modification, or alteration is made to pre-existing WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

No WECS, MET Tower, or associated Substation shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each individual WECS, MET Tower, and Substation, or WECS Project, pursuant to this Ordinance.

VI. FEES

Fees for WECS siting approval and building permit shall be included in the Fulton County Zoning Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SITING APPROVAL APPLICATION

- A.** All Large WECS and/or WECS Facilities shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XII).
- B.** To obtain siting approval for a WECS Project, the Applicant must first submit a building permit application to the County Zoning Officer.
- C.** The Siting Approval Application shall contain or be accompanied by the following information:
 - 1.** A WECS Project summary, including:
 - a.** A general description of the project, including its rated generating capacity; the potential equipment manufacturer(s), type(s) of WECS, number of WECS, and rated generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS rotor(s); the general location of the project.
 - b.** The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), along with a description of the prospective business structure.
 - c.** A site plan for the installation of WECS showing the planned location of each WECS Tower, MET Tower, Inhabited Structure(s) within one-half (½) mile of the nearest boundary of the WECS Facility, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), transmission lines from the WECS Tower(s) to the Substation(s), ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of the proposed WECS Facility.
 - d.** The applicant shall submit a proposed WECS Facility lighting plan that describes all lighting that will be required including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.

- e. An ingress and egress study for all construction and operation.
 - f. All required studies, reports, certifications, and approvals demonstrating compliance with any applicable law(s) and the provisions of this Ordinance.
 - g. Any other information required by the County as part of its zoning process.
- D. The Applicant shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

VIII. DESIGN AND INSTALLATION

A. *Design Safety Certification*

1. WECS shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energie (“GL”), or an equivalent third party.
2. Following the granting of siting approval under this Ordinance, a Professional Engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. *Color*

1. WECS towers, nacelles, blades, etc., shall be painted a non-obtrusive (e.g., light environmental color such as white, gray, beige, or as recommended by the avian study) color that is non-reflective, and shall not be used for advertisement beyond the name of the WECS manufacturer.
2. The design of the WECS Project buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS Project to the natural setting and the existing environment.

C. *Compliance with the Federal Aviation Administration*

The Applicant for the WECS shall comply with all applicable local, State or Federal laws, rules, regulations, and/or requirements, set forth by such agencies as, but not limited to, the FAA, and/or the DoA.

D. *Safety and Security*

1. The Fulton County Zoning Officer and Fulton County Engineer are granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify at the last known address), to perform safety inspections.
2. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. A manual and/or over-speed shutdown disconnect switch(es) shall be provided and clearly labeled on the WECS Tower. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation alone shall not be considered a sufficient braking system for over-speed protection.
 - a. The rotor over-speed control system shall be certified in writing by a Professional Engineer. The Engineer shall certify compliance with good engineering practices.
3. All structures at the WECS Facility shall be grounded according to provisions of the National Electric Code.
4. All WECS Project wiring shall be underground, except where the WECS Project wiring is connected to the transmission or distribution network, adjacent to that network. All electrical components of the WECS(s) shall conform to applicable Local, State, and National Electric Codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).
 - a. The electrical system shall be certified in writing by a Professional Engineer. The Engineer shall certify compliance with good engineering practices and with the appropriate provisions of the National Electric Code.
5. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than seventy-five (75) feet.
6. Wind Turbine towers shall not be climbable up to fifteen (15) feet above ground level.

7. All access doors at the WECS Facility shall be lockable and shall remain locked at all times when WECS Facility personnel are not present.
8. All Large WECS Towers shall be self-supporting. No Guy Wire supported Large WECS Towers shall be permitted.
9. Appropriate warning signage shall be placed on WECS Towers, electrical equipment, and WECS Facility entrances.
10. Fencing at the periphery of the WECS Facility or at the base of the WECS Towers may be required to prevent unauthorized access to the WECS Facility.

E. *Setbacks*

1. All WECS Towers shall be set back at least one-thousand (1000) feet or two (2) times the WECS height, whichever is greater, from any Inhabited Structure. The distance for the above setback shall be measured from the point of the Inhabited Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Inhabited Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to an Inhabited Structure than one and one-tenth (1.1) times the WECS Height. (See VIII-E-5 below)
2. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from public roads, third party transmission lines, and communication towers. The Zoning Board of Appeals may waive the setback requirement for County roads. (See VIII-E-5 below)
3. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from adjacent property lines. The affected adjacent property owner may waive this setback requirement. (See VIII-E-5 below)
4. All WECS towers must be separated by a minimum distance equal to one and one-tenth (1.1) times the WECS Height, based on the tallest WECS Height involved.
5. The Applicant or Owner must obtain a variance from the Fulton County Zoning Board of Appeals upon proposed waiver by either the Zoning Board of Appeals or any property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.

F. *Zoning*

1. For purposes of land use and lot size, WECS shall only be installed:
 - a. in accordance with any existing Comprehensive Land Use Plan, and
 - b. on lands zoned AC, and
 - c. on lots 5 acres or larger, or
 - d. if the County issues a Conditional Use permit for land use or lot size differing from those set forth in items **a**, **b**, or **c**.

G. *Compliance with Additional Regulations*

Nothing in this Ordinance is intended to preempt other applicable local, state, and/or federal laws, rules, and regulations.

H. *Use of Public Roads*

1. An Applicant, Owner, or Operator proposing to use any public roadway for the purpose of transporting oversized or overweight WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) 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, Owner, or Operator must obtain a weight or size permit the Applicant, Owner, or Operator shall:
 - a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - b. Create a pre-construction agreement between the WECS Facility Owner(s) and Appropriate Highway Authorities concerning the standards by which roadways will be repaired, and set forth standards for roadways which will be followed in completing road repairs after construction and for maintenance purposes during the life of the WECS Facility, and

- c. Secure Financial Assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the WECS.

IX. OPERATION

A. Maintenance

1. The Applicant, Owner, or Operator of the WECS Facility must submit, on an annual basis, a summary of the operation and maintenance reports to the County Zoning Office. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County Zoning Officer requests.
2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major components shall require re-certification by a Professional Engineer(s). Like-kind replacements will not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a Professional Engineer to determine whether the physical modification will require re-certification, and provide the results of such conference to the Fulton County Zoning Officer. Once modifications are complete a certificate from a Professional Engineer showing the modifications to be safe shall be placed on record with the Fulton County Zoning Officer.

B. Interference

1. The Applicant, Owner, or Operator shall provide the applicable microwave transmission providers and all local emergency service provider(s) copies of the project summary and site plan. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall attempt to mitigate such anticipated interference.
2. If, after construction of the WECS, the Applicant, Owner, or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint and correct any interference deficiencies found.

C. Coordination with Local Fire Department

1. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

2. The Applicant, Owner, or Operator shall submit to the local fire department a detailed copy of the site plan.
3. Fire Control and Prevention Program Required: The Applicant, Owner, or Operator shall submit a Fire Control and Prevention Program that is appropriate and adequate for the proposed WECS Facility. The proposed program may include, but is not limited to, the following:
 - a. Fireproof or fire resistant building materials;
 - b. Buffers or fire retardant landscaping;
 - c. An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment—without regular human occupancy;
 - d. Fire breaks which will be cleared of vegetation and maintained as a fire/fuel break as long as the WECS Facility is in operation (e.g., 30 feet around the periphery of the proposed project site; 10 feet around all transformers and WECS and their foundations; 30 feet around all buildings);
 - e. Provision of training and fire fighting equipment for local fire protection personnel.
4. Upon request by the local fire department, the Owner or Operator shall cooperate to develop an emergency response plan.

D. *Materials Handling, Storage and Disposal*

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

X. NOISE LEVELS

- A. Noise levels from each WECS or WECS Project shall be in compliance with applicable IPCB regulations. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with IPCB noise requirements. The Applicant, Owner, or

Operator shall provide evidence of compliance with IPCB regulations upon request by the County Zoning Officer.

- B. Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary of the WECS Facility.
- C. The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
- D. The County may impose noise limits lower than those required by the IPBC if it deems that lower noise levels are necessary to protect the public health, safety and welfare of the community.

XI. BIRDS

A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the siting approval application process, to determine if the installation of WECS(s) will have a substantial adverse impact on birds.

XII. PUBLIC NOTICE AND PARTICIPATION

There shall be a Public Hearing held, with proper notice, by the Fulton County Zoning Board of Appeals prior to the permitting of any Large WECS(s) or WECS Facility. Not less than fifteen (15) days prior to the Public Hearing, the Large WECS Applicant(s), Operator(s), or Owner(s) shall send notice via U.S. Postal Service to all property owners with property located within one (1) mile of any property line of the proposed Large WECS Facility notifying them of the proposed Large WECS Facility along with date, time, and place of the Public Hearing. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XIII. LIABILITY INSURANCE

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two (2) million dollars per occurrence and ten (10) million dollars in the aggregate.

XIV. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance the Owner(s) must formulate and present to the County Board, a Decommissioning Plan to ensure that the WECS Project is properly decommissioned upon end of project life, abandonment, or inoperability.

- A. Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or

WECS Facility abandonment. The decommissioning plan shall state how the WECS(s) will be decommissioned, a Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond or escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County which states:

1. The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the County Board.
2. If the applicant chooses an escrow agreement:
 - a. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and
 - b. The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or WECS Facility abandonment.
- B. The County, and/or its agents, is granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify), to effect or complete decommissioning.
- C. The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant's successors assigns, or heirs for decommissioning costs in excess of the amount deposited in escrow, and to file a lien against any real estate owned by the Owner or the Owners' successors, assigns, or heirs, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- D. The Decommissioning Plan shall include a provision stating that the terms of the plan shall be binding upon the Owner(s) and any of their successors, assigns, or heirs.

XV. REMEDIES

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first attempt to notify the

Applicant, Owner(s), and Operator(s), at the last known address, setting forth the alleged default(s). Such written notice shall provide the Applicant, Owner(s), and Operator(s) a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

- C. If the County Board determines that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County Ordinance provisions addressing the resolution of such default(s) shall govern, WECS permit(s) shall be revoked, and decommissioning shall be completed within six (6) months.

SECTION 9.3

SOLAR SITING ORDINANCE

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Solar Siting Ordinance of Fulton County, and will become Section 9.3 of the Fulton County Zoning Ordinance.

WHEREAS Fulton County, Illinois has been granted authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001 et. seq. and make rules and regulations (a) governing the construction and alteration of all buildings pursuant to 55 ILCS 5/5-1063,

NOW, THEREFORE, BE IT ORDAINED by the Fulton County Board as follows:

1. Purpose and Intent
 - A. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a jurisdiction's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar energy is generated.
 - B. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a component of Fulton County's Long Range Plan.
 - C. The ordinance aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

2. Definitions

ACCESSORY STRUCTURE

A structure, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, and is located on the same lot or premises as the principal building.

ALTERNATIVE ENERGY SYSTEMS

Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEMS

A solar energy system that consists of integrating photovoltaic modules into the building structure such as the roof or façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR

Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-pane” programs, or other similar arrangements.

COMMERCIAL/LARGE SCALE SOLAR

Refers to a utility scale commercial facility that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for onsite or offsite use with the primary purpose of selling wholesale or retail generated electricity.

CONCENTRATING SOLAR POWER (CPS)

A solar energy system that produces using heat from the sun (thermal energy) to drive utility-scale, electric turbines; and heating and cooling systems, which collect thermal energy to provide hot water and air conditioning.

DISTRIBUTED GENERATION

A solar energy system that produces using equipment is located on rooftops or ground-mounted arrays close to where the energy is used.

FLUSH MOUNTED SOLAR PANEL

Any type of solar panels, tiles or shingles, that are installed flush to the surface of a roof and which cannot be angled or raised.

FREE STANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

INVERTER

An electronic device or circuitry that changes direct current (DC) to alternating current (AC).

NET METERING

A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PERMIT GRANTING AUTHORITY

The Fulton County Zoning Office will be charged with the authority of granting permits for the operation of solar energy systems within its jurisdiction.

PHOTOVOLTAIC (PV) SYSTEMS

A solar energy system that produces electricity by the use of semiconductor devices called photovoltaic cells that generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER

A trained and qualified electrical professional who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

RECLAMATION BOND

A Reclamation Bond, also known as a Decommissioning Bond, is a type of performance surety bond. This type of surety bond is required by Fulton County prior to issuing permits for solar installations of all types. A reclamation bond provides a financial guarantee that the land being disturbed for the installation and operation of the solar installation, will be returned back to either its original state or an acceptable condition agreed upon by the land owner and the developer. Reclamation bond amounts are not standard. The amount required is usually based on a form of cost analysis used to determine the approximate cost to reclaim the land after the solar installation is decommissioned.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM

A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SMALL SCALE SOLAR ENERGY SYSTEM

Any device or combination of devices or elements which rely upon direct sunlight as an energy source including but not limited to any substance or device which collects sunlight for generating electricity for use onsite. However, the energy output may be delivered to a power grid to offset the cost of energy on site.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation or transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM

Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy storage, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR HEATING & COOLING (SHC)

A solar energy system that produces thermal (heat) energy for water & pool heating and space heating.

SOLAR PANEL

A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY

A device that stores energy from the sun and makes it available in an electrical form.

SOLAR STORAGE BATTERY CONTAINMENT

Spill containment for stationary battery systems, in compliance with all federal and state laws.

SOLAR THERMAL SYSTEMS

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

3. Applicability

- A. The requirements of this Ordinance shall apply to all Small Scale and Commercial/Large Scale solar energy systems modified or installed after the effective date of this Ordinance.
- B. Solar energy systems for which installation has commenced prior to the effective date of this Ordinance or that are less than 25 square feet shall not be required to meet the requirements of this Ordinance unless they are connected to the utility grid. If they are connected to the utility grid, the local utility company must be contacted for an inspection and the installation must be permitted by the utility.
- C. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.
- D. All solar energy systems must have proof of liability insurance prior to the start of construction and show the coverage will continue through any decommissioning phase.

4. Permitting

- A. No solar energy system or device shall be installed or operated in the County of Fulton except in compliance with this Ordinance.
- B. To the extent practicable, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Fulton County Zoning Ordinance.
- C. Small scale solar energy systems shall be permitted in residential, business districts and agricultural/conservation districts.
- D. Commercial/Large scale solar energy systems shall be permitted as a conditional use in agricultural/conservation and industrial districts.
- E. Small scale solar energy systems will be permitted subject to the following conditions:
 - a. Devices must be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
 - b. The total height of the building including the solar collection devices shall comply with the height regulations of the zoning district.

- c. Roof mounted solar collectors shall be constructed so as not to obstruct solar access on neighboring properties.
- d. The setback requirements for ground mounted solar collectors shall meet all applicable setback requirements for an accessory structure within the zoning district.
- e. All solar collector installations must be performed by trained and qualified electrical professional. All installations must be in compliance with all applicable construction codes.
- f. All local electrical utility companies must be notified by the applicant prior to installation
- g. Any entity connecting to the public utility grid must contact the appropriate utility company, comply with their standards, and have a satisfactory inspection prior to becoming operational.
- h. Solar energy systems shall be maintained in good working order.
- i. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment by no later than 90 days after the twelve month period.
- j. Those facilities under 50 kW shall not use any hazardous materials, such as lead, mercury, or asbestos in the construction of the facility.

F. Utility scale solar energy systems will be permitted subject to the following conditions:

- a. A solar collection device or combination of devices will be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- b. The total height of the building including the solar collection devices shall comply with the height regulations of the zoning district.
- c. In AC districts the solar collection system shall be incidental to the use of the farm.
- d. Installation of the solar collection system shall not adversely impact adjacent properties.
- e. All commercial/large scale solar collection devices shall register with the Regional Transmission Operator and shall submit a map noting the location of the solar collection devices and the panel disconnect.
- f. The developer must provide evidence of the physical control of the site to be developed as well as provide a land description of the ground that is being used. For the protection of the developer's property, a security fence must surround the property. The security fence shall be at least eight (8) feet high with a setback of at least a ten (10) feet. The security fence shall be a cyclone type or chain link type. The security fence shall follow the perimeter of the land description of the ground to be developed. Perimeters of the land description where waterways of any type interact, setbacks must be at least fifty (50) feet.

- g. The applicant shall demonstrate that a utility scale solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, or a structure listed by the Fulton County Historical Society. The setback requirements for ground mounted solar collectors shall meet all applicable setback requirements for an accessory structure in the zoning district.
- h. As part of the application process, plans for future decommissioning shall need to be established prior to a permit being issued.
- i. A lease agreement must be entered into by all commercial/large scale solar developers.
- j. All solar collector installations must be performed by trained and qualified electrical professional. All installations must be in compliance with all applicable construction codes.
- k. During the construction phase of a solar collector; roadways will likely be impacted by an increase in traffic from construction equipment; the developer will provide mediation of road usage, with local road officials.
- l. All local utility companies must be notified by the applicant prior to any site work.
- m. All applicants shall obtain a Reclamation Bond, also known as a Decommissioning Bond, equal to \$30,000.00 per megawatt of the solar collector. If a project will have battery storage or if battery storage is added later, an additional \$30,000.00 per megawatt shall be added to the bond. All Reclamation Bonds, also known as a Decommissioning Bond, must be obtained by firms licensed in the State of Illinois and must have a B+ rating by AM Best Company, Inc. All Reclamation Bonds must be issued to Fulton County. The Reclamation Bond, also known as a Decommissioning Bond will apply to the initial developer and all successors who occupy the property before the project is decommissioned and returned to original state or better.
- n. Solar energy systems shall be maintained in good working order.
- o. If after a period of two years, if a lease property has not been developed, the conditional use permit will be subject to review and upgraded to meet current ordinance standards.
- p. If a solar collector ceases to perform its originally intended function for more than 90 days, the developer shall remove the collector, mount, and associated equipment by no later than 90 days.
- q. The developer, upon deciding to decommission a solar collector, shall give a 90 days' notice to all involved parties prior to beginning the decommissioning work, in the form of a certified letter outlining their plans.
- r. The developer, upon completion of the decommissioning of a solar collector, shall return the land to a condition that it was before the installation of a solar collector, or better. The Fulton County Assessment office will determine the value of the land once decommissioning has been completed.
- s. A developer purposing to use any public roadway, for the purpose of transporting materials of any type used in the construction, operation or maintenance of a solar array must identify all public roadways, obtain applicable weight and size permits from the relevant government agencies prior to construction, conduct a pre-construction baseline survey to determine

existing road conditions for assessing potential future damage. A developer must create a pre-construction agreement with the appropriate highway authorities concerning the standard on which the road will be repaired after construction, maintenance purposed during the life of the solar site as well as during the decommissioning phase.

5. Fees

Solar Fee Schedule

System Size	One-Time Permit Fee
5 kW - 50 kW	\$150.00
51 kW - 100 kW	\$300.00
101 kW - 600 kW	\$500.00
601 kW - 999 kW	\$3,000.00
Above 1 MW	\$2,000 per MW

6. Validity

- a. This ordinance shall be a supplement to, and shall not nullify or usurp any state or federal law. This ordinance shall supersede any and all resolutions or ordinances that have been passed prior.
- b. If any section, paragraph, sentences, clause or other portion of this ordinance is held or deemed to be unenforceable or invalid, then such holdings or finding of unenforceability or invalidity shall not affect the validity of the remaining provisions of this ordinance
- c. This ordinance shall become effective immediately. Be it further ordained, that this ordinance be recorded in the permanent records of the Fulton County Board and published according to law.

SECTION 9.4

COMMERCIAL SOLAR ENERGY FACILITY SITING ORDINANCE

WHEREAS Fulton County, Illinois has been granted authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001 *et. seq.* and 55 ILCS 5/5-12020 *et. seq.* and make rules and regulations (a) governing the construction and alteration of all buildings pursuant to 55 ILCS 5/5-1063, and

WHEREAS, the Fulton County Zoning Board of Appeals held a public hearing pursuant to Illinois law for review of the COMMERCIAL SOLAR ENERGY FACILITY SITING ORDINANCE FOR FULTON COUNTY, and approved this ordinance as written.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF FULTON AS FOLLOWS:

DEFINITIONS

- A. "Applicant" means the entity who submits to the Zoning Board of Appeals an application for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee (as defined herein),
- B. "Commercial Operation Date" means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.
- C. "Commercial Solar Energy Facility" or "Commercial Solar Energy System" 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 Building Permit" means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. A Commercial Solar Energy Building Permit may be issued by the Zoning Board after a Commercial Solar Energy Facility has obtained a Conditional Use Permit from the Zoning Board of Appeals and the Zoning Board of Appeals determines that all conditions, if any,

have been satisfied that are imposed by the Conditional Use Permit. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial Solar Energy Facility to the Zoning Department prior to commencement of construction of the Commercial Solar Energy Facility. 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 Solar Energy Facility.

- E. "Commercial Solar Energy Facility Permittee" means an Applicant who applies for and receives a Conditional Use Permit under this Ordinance for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Ordinance shall include a Commercial Solar Energy Facility 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 Solar Energy Facility 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 Solar Energy Facility 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 Solar Energy Facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

"Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, 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.

- J. "Owner" means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, 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 Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar Energy Facility 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 Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.
- K. "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 Solar Energy Facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.
- L. "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 Solar Energy Facility is filed with the county.
- M. "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.
- N. "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.
- O. "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 wildlife refuges 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. "Conditional Use Permit" means a permit approved by the Zoning Board of Appeals, 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 Zoning Board of Appeals.

Q. "Substation" means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility 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 Solar Energy Facility.

APPLICABILITY

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

PROHIBITION

A. No Commercial Solar Energy Facility 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 Solar Energy Facility or for a group of Commercial Solar Energy Facilities under a joint siting application pursuant to this Ordinance. Commercial solar will be permitted in Agricultural/Conservation and Industrial Districts only.

CONDITIONAL USE PERMIT APPLICATION

- A. To obtain siting approval, the Applicant must first submit a Conditional Use Permit application to the Zoning Board of Appeals.

- B. The Conditional Use Permit application shall contain or be accompanied by the following information:
 - 1. A Commercial Solar Energy Facility 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) type(s) of solar panels, cells and modules, (iv) the number of solar panels, cells and modules, (v) the maximum height of the solar panels at full tilt, (vi) the number of Substations, (vii) a project site plan, project phasing plan and project construction timeline plan, and (viii) the general location of the project; and (b) a description of the Applicant, Owner and Operator, including their respective business structures;

 - 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 site plan for the Commercial Solar Energy Facility showing the planned location of solar panels, including legal descriptions for each 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 Solar Energy Facility, and the layout of all structures within the geographical boundaries of any applicable setback;

 - 4. A proposed Decommissioning Plan for the Commercial Solar Energy Facility;

5. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
6. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
7. The topographic map shall include the Commercial Solar Energy Facility site and the surrounding area;
8. Any other information normally required by the Zoning Board of Appeals as part of its permitting requirements for siting buildings or other structures;
9. 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 of Deeds Office confirming that the waiver was recorded against title to the affected real property.
10. Results and recommendations from the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
11. 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.
12. Information demonstrating that the Commercial Solar Energy Facility will avoid protected lands.
13. Any other information requested by the Zoning Board of Appeals or the County consultants that is necessary to evaluate the siting application and operation of the Commercial Solar Energy Facility and to demonstrate that the Commercial Solar Energy Facility meets each of the regulations in this Ordinance, including the Conditional 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; and
- D. The Applicant shall submit twelve (12) copies of the Conditional Use Permit application to the Zoning Board of Appeals, and at least one (1) copy in electronic format.

DESIGN AND INSTALLATION

A Design Safety Certification

- 1. Commercial Solar Energy Facilities 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 Zoning Board of Appeals.
- 2. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the Commercial Solar Energy Facility Building Permit application process, which the design of the Commercial Solar Energy Facility is within accepted professional standards, given local soil, subsurface and climate conditions.

B. Electrical Components

- 1. All electrical components of the Commercial Solar Energy Facility 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: A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sits. . The vegetative screening shall include a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants.
2. Lighting: If lighting is provided at the Commercial Solar Energy Facility, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
3. 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. A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the Commercial Solar Energy Facility.
2. All gates must be clearly labeled with a numbering schema as approved by the Fulton County 911 Office and updated annually.
3. All locked gates with access to a public road must be locked with a lock that utilizes a numeric code or be equipped with a Knox box. If equipped with a lock utilizing a numeric code, that code must be on file with the Fulton County 911 Office and updated annually.

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.

G. Setback Requirements

1. The Commercial Solar Energy Facility 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. Nonparticipating Residences: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
- c. Boundary Lines of Participating Property: None.
- d. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the nonparticipating property.
- e. 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.

The Applicant does not need to obtain a variance from the Zoning Board of Appeals 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 Recorder of Deeds of the County.

H. Compliance with Additional Regulations

1. 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 Solar Energy Facility or Substation parts and/or equipment for construction, operation, or maintenance of the Commercial Solar Energy Facility 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.
 - c. Obtain applicable Entrance and Utility permits from relevant government agencies prior to construction, should they be required.

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 third party 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 or the County Engineer prior to the granting of the Conditional 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 or the County Engineer. The Road District Commissioner or County Engineer may choose to require remediation of road repair upon completion of the Community Solar Energy Facility in addition to being 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 or County Engineer 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 Conditional Use Permit.

- c. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans'
 - iv. Project traffic map;
 - v. Project scope of repairs;
 - vi. Post-construction repairs;
 - vii. Insurance;
 - viii. Financial Security in forms and amounts acceptable to the County;

The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct Commercial Solar Energy Facility and the reasonable cost of repairing roads used by the facility owner during construction of the Community Solar Energy Facility so that those roads are in a condition that is safe for the driving public after the completion of the Commercial Solar Energy Facility construction. Roadways improved in preparation for and during the construction of the Community Solar Energy Facility 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.

3. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County or Road District before being made and shall also be subject to inspection and acceptance by the County or Road District 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 the Zoning Board of Appeals/Zoning Department approval of any Commercial Solar Energy Facility Building Permit applications related to the construction of the proposed Commercial Solar Energy Facility.

J. Site Assessment

1. To ensure that the subsurface conditions of the site will provide proper support for the Commercial Solar Energy Facility and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its Commercial Solar Energy Facility 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 Solar Energy Facility Building Permit for the construction of said substations.

K. Noise Levels

1. Noise levels from Commercial Solar Energy Facilities shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Conditional Use Permit application.

L. Agricultural Impact Mitigation

1. 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 Solar Energy Facility 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 Zoning Board of Appeals as part of the Conditional Use Permit application.

O. As-Built Map and Plans

1. Within sixty (60) calendar days of completion of construction of the Commercial Solar Energy Facility, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the Commercial Solar Energy Facility that have been signed and stamped by a Professional Engineer and a licensed surveyor.

Q. Engineer's Certificate

1. The Commercial Solar Energy Facility 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 Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Conditional Use Permit application.

R. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the Commercial Solar Energy Facility in substantial conformance with the construction plans contained in a Zoning Board of Appeals approved submitted Conditional Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.

S. 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 Conditional Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.

2. The applicant shall obtain the services of a certified court reporter to record the meeting and issue the report to the applicant and to Fulton County. The cost of the reporter will be borne by the applicant.
3. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the Commercial Solar Energy Facility 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 Solar Energy Facility 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 Solar Energy Facility.
4. The Conditional 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 Solar 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, and the provisions in this Ordinance are severable.
5. 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 Solar Energy Facility Building Permit.

OPERATION

A. Maintenance

1. Annual Report. The Applicant must submit, on an annual basis on the anniversary date of the Conditional Use Permit application, an operation and maintenance report to the Zoning

Board of Appeals. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the Commercial Solar Energy Facility and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the Commercial Solar Energy Facility and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the Commercial Solar Energy Facility. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article XI (Remedies).

2. Re-Certification. Any physical modification to the Commercial Solar Energy Facility that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section VI(A)(1) 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.

B. Coordination with Emergency Responders:

1. The Applicant 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 Solar Energy Facility 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 Solar Energy Facility.
2. The Applicant shall provide a map of the facility labeling the location of the following;
 - Batteries: The map should clearly call out battery locations and size of battery storage.

- Roads: The Applicant shall work with the Fulton County 911 Office to develop a private lane naming and addressing schema.
3. The Applicant shall provide the Fulton County Zoning Office and 911 Office with any GIS Shape Files owned by the Applicant for the facility to assist with creating a map for the facility. In the event GIS shape files are not available, the Applicant agrees to allow Fulton County 911 Staff access to the facility to create a digital map.
 4. 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 Solar Energy Facility.
 5. 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 Solar Energy Facility 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 Solar Energy Facility 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.
 6. 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 Solar Energy Facility 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 Solar Energy Facility shall

be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

3. The Commercial Solar Energy Facility 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

1. 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 Solar Energy Facility.

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 Solar Energy Facility in accordance with the Agricultural Impact Mitigation Agreement.

LIABILITY INSURANCE AND INDEMNIFICATION

1. Commencing with the issuance of a Commercial Solar Energy Facility Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence and 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 Commercial Solar Energy Facility, in coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the Commercial Solar Energy Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a Commercial Solar Energy Facility Building Permit,

corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.

The Applicant shall defend, indemnify and hold harmless the County 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 Conditional Use Permit or the construction, operation, maintenance and removal of the Commercial Solar Energy Facility 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, the Owner or the Operator under this Ordinance or the Conditional 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. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

1. Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Zoning Board of Appeals as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Solar energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide update Financial Assurances to the benefit of the County

REMEDIES

1. The Applicant's failure to materially comply with any of the provisions under the Conditional 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 Conditional Use Permit by the Zoning Board of Appeals.
2. Prior to implementation of the applicable County procedures for the resolution of default(s), the Zoning Board of Appeals 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.

FEE SCHEDULE AND PERMITTING PROCESSES

1. Application Fees
 - a. Prior to processing any Application for a Commercial Solar Energy Facility, the Applicant must submit a payment to the Zoning Department for the Conditional Use Permit Application Fee of \$5,000, plus \$1,000 for every MW over 2 MW, not to exceed \$250,000.
 - b. Should the actual costs to the County exceed the submitted Conditional Use Permit Application Fee, the Applicant shall be responsible for those additional costs. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees or costs due to the County.

2. Building Permit Fees

- a. Prior to the issuance of building permits, the Building Permit Applicant must remit a Building Permit Fee equating to \$2,000 per MW of nameplate capacity. If the total nameplate capacity is less than 1 MW, the building permit fee shall be as follows:

5 kW – 50 kW: \$150

51 kW – 100 kW: \$300

101 kW – 600 kW: \$500

601 kW – 999 kW: \$3,000

3. All Costs to be Paid by Applicant or Owner

- a. 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.

HEARING FACILITATOR

1. The Zoning Board of Appeals 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 board 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.
2. 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 facilitator.

HEARING FACTORS

1. The Zoning Board of Appeals may approve a Commercial Solar Energy Facility Conditional Use Permit application, if it finds the evidence complies with state and federal law and regulations, and with the

standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- a. The establishment, maintenance or operation of the Commercial Solar Energy Facility will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The Commercial Solar Energy Facility 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;
- c. The establishment of the Commercial Solar Energy Facility will not impede the normal and orderly development and improvement of the surrounding properties;
- d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. The proposed Commercial Solar Energy Facility is not contrary to the objectives of the current comprehensive plan of the County (if any); and
- g. The Commercial Solar Energy Facility shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Zoning Board of Appeals.

2. Conditional Use Permit Conditions and Restrictions. The Zoning Board of Appeals may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the Commercial Solar Energy Facility as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.

3. Revocation.

- a. In any case where a Conditional Use Permit has been approved for a Commercial Solar Energy Facility, the Applicant shall apply for a Commercial Solar Energy

Facility 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. If the Applicant fails to apply for a Commercial Solar Energy Facility 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 Zoning Board of Appeals, the Conditional Use Permit authorizing the construction and operation of the Commercial Solar Energy Facility 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 Zoning Board of Appeals, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Conditional Use Permit.

- b. The Conditional Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the Commercial Solar Energy Facility or the Commercial Solar Energy Facility ceases to operate for more than twelve (12) consecutive months for any reason.
- c. Subject to the provisions of Article XI (Remedies), a Conditional Use Permit may be revoked by the Zoning Board of Appeals if the Commercial Solar Energy Facility is not constructed, installed and/or operated in substantial conformance with the Zoning Board of Appeals approved Project plans, the regulations of this Ordinance and the stipulated Conditional Use Permit conditions and restrictions.

4. Transferability; Owner or Commercial Solar Energy Facility Permittee.
The Applicant shall provide written notification to the Zoning Board of Appeals at least thirty (30) days prior to any change in ownership of a Commercial Solar Energy Facility of any such change in ownership. The phrase "change in ownership of a Commercial Solar Energy Facility" includes any kind of assignment, sale; lease, transfer or other

conveyance of ownership or operating control of the Applicant, the Commercial Solar Energy Facility or any portion thereof. The Applicant or successors-in-interest or assignees of the Conditional Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Conditional Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

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

- a. Permit Effective Date: The Conditional Use Permit shall become effective upon approval of the ordinance by the Zoning Board of Appeals.

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 Fulton County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Fulton County nor conflict with any statutes of the State of Illinois.

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.

EFFECTIVE DATE

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

That upon passage, this Commercial Solar Energy Facility Siting Ordinance for Fulton County shall be known as Section 9.4 of the Fulton County Zoning Ordinance of 2009.

SECTION 9.5

BATTERY ENERGY STORAGE SYSTEM (BESS) SITING ORDINANCE

WHEREAS Fulton County, Illinois has been granted authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001 *et. seq.* and 55 ILCS 5/5-12020 *et. seq.* and make rules and regulations (a) governing the construction and alteration of all buildings pursuant to 55 ILCS 5/5-1063, and

WHEREAS, the Fulton County Zoning Board of Appeals held a public hearing pursuant to Illinois law for review of the Battery Energy Storage System Siting Ordinance for Fulton County, and approved this ordinance as written.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF FULTON AS FOLLOWS:

(I) DEFINITIONS

- A. AIMA: Agricultural Impact Mitigation Agreement
- B. ANSI: American National Standards Institute
- C. Battery(ies): A single cell or group of cells connected electrically in a series, in a parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this ordinance, batteries utilized in consumer products are excluded from these requirements.
- D. Battery Energy Storage System (BESS): One or more devices, assembled, capable of storing energy to supply electrical energy at a future time. The term includes, but is not limited to, electrochemical, thermal, and electromechanical technologies. For the purposes of this ordinance, a battery energy storage system is classified as a “Tier 1” or “Tier 2” Battery Energy Storage System as follows:

Tier 1 – A BESS that has an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consists of only a single energy storage system technology. A rechargeable BESS typically used to provide standby or emergency power and/or uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or other businesses on site. These are permitted in all zoning districts and shall only be subject to the permitting regulations set forth in the Fulton County Zoning Ordinance of 2009.

Tier 2 – A BESS that has an aggregate energy capacity greater than 600 kWh or is comprised of more than one battery storage technology in a room or enclosed area. Tier 2 BESS are permitted only in Agricultural Conservation & Industrial Zoning classifications.

- E. Cell: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.
- F. Commissioning: A systematic process that provides documented confirmation that a BESS functions according to the intended design criteria and complies with applicable code requirements.
- G. Dedicated-Use Building: A building that is built for the primary intention of housing battery energy storage equipment.
- H. Fire Code: The fire code of the State of Illinois as currently in effect and as hereafter amended from time to time.
- I. NEC: National Electric Code
- J. NFPA: National Fire Protection Association
- K. Non-Dedicated-Use Building: All buildings that contain a BESS and do not comply with the dedicated-use building requirements.
- L. Non-Participating Property: Real property that is not a participating property.
- M. Non-Participating Residence: A residence that is located on non-participating property and that is existing and occupied on the date that an application for a permit to develop a battery energy storage system is filed with the county.
- N. Occupied Community Building: Any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the battery energy storage system is filed with the county: a school, place of worship, day care facility, public library or community center.
- O. Operator: The person or entity responsible for the day-to-day operation and maintenance of a battery energy storage system, including any third-party subcontractors. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.
- P. Owner: The person or entity or entities:
 - (i) with an equity interest in a battery energy storage system, including their respective successors-in-interest and assigns
 - (ii) who is acting as a developer of the BESS by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the BESS, regardless of whether the person will own or operate the BESS.

The Owner DOES NOT mean:

- (i) the property owner from whom land is leased for the purpose of locating a battery energy storage system (unless the property owner has an equity interest in a BESS)

- (ii) any person holding a security interest in a battery energy storage system 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 battery energy storage system at the earliest practicable date.
- Q. Participating Property: Real property that is the subject of a written agreement between a BESS owner and the owner of the real property that provides the BESS owner with an easement, option, lease, or license to use the real property for the purpose of constructing a BESS. Participating property also includes real property that is owned by a BESS owner for the purpose of constructing a battery energy storage system.
- R. Participating Residence: 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 a battery energy storage system is filed with the Zoning Board of Appeals.
- S. “Fulton County Zoning Ordinance of 2009” or “Zoning Ordinance” means the Fulton County Zoning Ordinance of 2009, as amended.

(II) APPLICABILITY

- A. The requirements of this Ordinance shall apply to all BESS permitted, installed, or modified pursuant to the Fulton County Zoning Ordinance after the effective date of this Ordinance.

(III) PROHIBITION

- A. No BESS shall be constructed, erected, installed or located within the county, unless prior siting approval has been obtained for each individual battery energy storage system or for a group of battery energy storage systems under a joint siting application pursuant to this Ordinance.

(IV) CONDITIONAL USE PERMIT APPLICATION

A. Requirements for Tier 1 Battery Energy Storage Systems

- 1. Tier 1 BESS shall be permitted in all zoning districts, subject only to the permitting regulations set forth in the Fulton County Zoning Ordinance of 2009.

B. Requirements for Tier 2 Battery Energy Storage Systems

- 1. Tier 2 BESS shall require a Conditional Use Permit application to the Fulton County Zoning Board of Appeals and the permitting regulations set forth in the Zoning Ordinance of 2009.

2. The Conditional Use Permit application shall contain or be accompanied by the following information:
 - a. A battery energy storage system summary, containing a general description of the project, including, but not limited to:
 - (i) The approximate total power capacity, energy capacity, and discharge duration of the BESS
 - (ii) The type(s) of battery(ies) used, and their potential manufacturer(s)
 - (iii) A preliminary equipment specification sheet that documents the proposed BESS components, inverters and associated electrical equipment that are to be installed.
 - (iv) The maximum height of any battery storage container, racking system or dedicated-use building
 - (v) An electrical diagram detailing the BESS layout, associated components, and electrical interconnection methods, with all NEC compliant disconnects and other current devices.
 - (vi) A project site plan, project phasing plan and project construction plan
 - (vii) The general location of the project.
 - b. A description of the Applicant, Owner and Operator, including their respective business structures;
 - c. 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;
 - d. A site plan for the BESS showing the planned location of the BESS and all related components, including legal descriptions for each 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) and/or energy generation facility, ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures (including surface ditches and subsurface drainage lines), archaeological sites, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed BESS, and the layout of all structures within the geographical boundaries of any applicable setback.
 - e. A proposed Decommissioning Plan for the BESS.

- f. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
 - g. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture.
 - h. Results and recommendations from the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool.
 - i. Results of any United State Fish and Wildlife Service’s Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with an applicable United States Fish and Wildlife Service’s Energy Development wildlife guidelines.
 - j. Information demonstrating that the BESS will avoid protected lands.
 - k. 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 Fulton County Recorder’s Office, confirming that the waiver was recorded against the title to the affected real property.
 - l. Any other information normally required the Fulton County Zoning Board of Appeals as part of its permitting requirements for siting buildings or other structures.
 - m. Any other information requested by the Fulton County Zoning Board of Appeals or the County consultants, that is necessary to evaluate the siting application and operation of the BESS, and to demonstrate that the BESS meets the regulations in this Ordinance, including the Conditional Use Permit standards set forth below.
3. Material changes to the application are not permitted once the Notice of Public Hearing has been published, unless requested or permitted by the County; and
 4. The Applicant shall submit twelve (12) copies of the Conditional Use Permit application to the Zoning Board of Appeals, and at least one (1) copy shall be in electronic format.

(V) DESIGN AND INSTALLATION

A. Design Safety Certification

1. BESS 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 the Underwriters Laboratories (UL), or an equivalent third party. All batteries, cells, panels, racking systems, containers, and all anchoring systems

shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance by the Fulton County Zoning Board of Appeals.

2. Following the granting of siting approval under this Ordinance, a structural engineer, as well as an electrical engineer, shall certify, as part of the BESS permit application process that the design of the BESS is within accepted professional standards, given local soil, subsurface and climate conditions.

B. Electrical Components

1. All electrical components of the BESS shall conform to all applicable local, state and national codes, and relevant national and international standards (ANSI, NEC, and International Electrical Commission).

C. Height

1. No component of a battery, cell, racking system, container or Dedicated-Use Building shall exceed twelve (12) feet in height above ground level.

D. Aesthetics and Lighting

1. All on-site utility lines shall be placed buried underground to the extent feasible and as permitted by the servicing utility, except for the main service connection at the utility company right-of-way (ROW).
2. Lighting: Lighting of the BESS shall be shielded and downcast, such that the light does not spill onto any adjacent parcels.
3. Vegetation: Vegetation shall be cleared of all combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or other similar types of vegetation shall be permitted to be exempt, provided that they DO NOT form a means of readily transmitting fire.

E. Fencing and Security

1. A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the BESS.
2. All gates must be clearly labeled with a numbering scheme as approved by the Fulton County 911 Office and updated annually.
3. All locked gates with access to a public road must be locked with a lock that utilizes a numeric code or be equipped with a Knox box. If equipped with a

lock utilizing a numeric code, that code must be on file with the Fulton County 911 Office, and updated annually.

4. A BESS that is enclosed within the project area of a Commercial Solar Energy Facility shall not require additional fencing.

F. Signage

1. Signage shall be in compliance with ANSI Z35 (American National Standards Institute Specifications for Accident Prevention) and shall include the type of technology associated with the BESS, any special hazards associated, the type of suppression system installed for the BESS, and 24-Hour emergency contact information, including reach-back phone numbers. These sign(s) shall be placed at all gates of entrance to the facility, as well as on the entrance to any buildings that may house any components of the BESS.
2. As required by the NEC (National Electric Code), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
3. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers, substations and in a clearly visible area on all Dedicated-Use Buildings.

G. Setback Requirements

1. The BESS 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 Non-Participating Properties: five hundred (500) feet from the nearest edge of any component of the BESS, to the nearest point on the outside wall of the structure.
 - b. Non-Participating Residences: five hundred (500) feet from the nearest edge of any component of the BESS, to the nearest point on the outside wall of the structure.
 - c. Non-Participating Properties: two hundred (200) feet from the nearest edge of any component of the BESS, to the nearest point on the property line of Non-Participating Property.
 - d. Public Road Rights-of-Way (ROW): two hundred (200) feet from the nearest edge of any component of the BESS, to the nearest edge of the public road Right-of-Way.
2. The setback requirements for Non-Participating Properties may be waived by the written consent of the owner(s) of each affected Non-Participating

Property. The Applicant does not need to obtain a variance from the Fulton County Zoning Board of Appeals upon waiver by the property owner of any of the above setback requirements. Any waiver of the above setback requirements shall run with the land and shall be recorded at the expense of the Applicant, with Land Records, in the Fulton County Recorder's Office.

H. Compliance with Additional Regulations

1. 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 BESS parts, components or related Substation parts or equipment for construction, operation or maintenance of the BESS or Substation(s) shall:
 - a. Identify all such public roads
 - b. Obtain applicable weight and size permits from the relevant governmental agencies prior to construction.
 - c. Obtain applicable Entrance and Utility permits from relevant governmental agencies prior to construction, should they be required.
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 third-party 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 or the County Engineer prior to the granting of the Conditional 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 BESS's equipment, the installation, maintenance or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner or the County Engineer. The Road District Commissioner or County Engineer may choose to require remediation of road repair upon completion of the BESS, in addition to being 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 or County Engineer 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 the application for a Conditional Use Permit.

- c. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 1. Project layout map;
 2. Transportation impact analysis;
 3. Pre-construction plans
 4. Project traffic map;
 5. Project scope of repairs;
 6. Post-construction repairs;
 7. Insurance;
 8. Financial Security in forms and amounts acceptable to the County; The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct the BESS and the reasonable cost of repairing roads used by the facility owner during construction of the BESS, so that those roads are in a condition that is safe for the driving public after the completion of the BESS construction. Roadways improved in preparation for and during the construction of the BESS 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.
3. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County or Road District before being made and shall also be subject to inspection and acceptance by the County or Road District 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 the Zoning Board of Appeals/Zoning Department approval of any applicable permitting regulations set forth in the Fulton County Zoning Ordinance, and any other applications related to the construction of the proposed BESS.

J. Site Assessment

1. To ensure that the subsurface conditions of the site will provide proper support for the BESS and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its BESS permit application process. 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 BESS for

review and comment by the County Soil and Water Conservation District prior to the issuance of any permit for the construction of said systems, as set forth in the Zoning Ordinance.

K. Noise Levels

1. Noise levels from BESS shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Conditional Use Permit application.

L. Agricultural Impact Mitigation

1. The Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement, consistent with what is set forth in 505 ILCS 147/15(a), with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the BESS 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 Zoning Board of Appeals as part of the Conditional Use Permit application.

M. As-Built Map and Plans

1. Within sixty (60) calendar days of completion of construction of the BESS, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the BESS that have been signed and stamped by a Professional Engineer and a licensed surveyor.

N. Engineer's Certificate

1. The BESS 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 BESS engineer's certificate shall be a public record and shall be submitted as part of the Conditional Use Permit application.

O. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the BESS in substantial conformance with the construction plans contained in the Zoning Board of Appeals approved Conditional Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.

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 Conditional Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
2. The applicant shall obtain the services of a certified court reporter to record the meeting and issue the report to the applicant and to Fulton County. The cost of the reporter will be borne by the applicant.
3. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the BESS during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the BESS 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 BESS.
4. The Conditional Use Permit granted to the Applicant shall bind and insure 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 BESS 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, and the provisions in this Ordinance are severable.

5. 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 BESS permits, such permits being subject to the permitting regulations set forth in the Zoning Ordinance.

(VI) OPERATION

A. Maintenance

1. Annual Report. The Applicant must submit, on an annual basis on the anniversary date of the Conditional Use Permit application, an operation and maintenance report to the Zoning Board of Appeals. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the BESS and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the BESS and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the BESS facility. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article IX (Remedies).
2. Re-Certification. Any physical modification to, retrofits or replacement of an existing BESS that increase the total battery energy storage system designed discharge duration or power rating shall require re-certification under Section V (A)(1) 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 Section V, paragraph 1, of this Ordinance to determine whether the physical modification requires re-certification.

B. Coordination with Emergency Responders:

1. The Applicant 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 BESS 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 BESS site may evaluate and coordinate their emergency response plans with the Applicant of the BESS.
2. The Applicant shall provide a map of the facility labeling the location of the following;
 - Roads: The Applicant shall work with the Fulton County 911 Office to develop a private lane naming and addressing schema.
3. The Applicant shall provide the Fulton County Zoning Office and 911 Office with any GIS Shape Files created by the Applicant for the facility to assist with creating a map of the BESS. In the event GIS shape files of the BESS are not available, the Applicant agrees to allow Fulton County 911 Staff access to the facility to create a digital map.
4. The Applicant, at its expense, shall provide annual training for, and the necessary/specialized equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the BESS Facility.
5. In the event of a response for prevention cleanup, containment, or abatement of an actual or potential fire, spill and/or release of hazardous materials, the owner and/or Operator of the site shall pay for all costs and expenses incurred as a result of such response including, but not limited to, actual labor costs of the response organizations and/or emergency management personnel involved in the response thereto for prevention, mitigation, containment, cleanup or abatement of the actual or potential discharge of hazardous materials, cost of equipment operation, damage and loss, cost of material obtained directly by the response organization and cost of any contract labor and material incurred by any governmental body or emergency response agency.

For the purposes of this section, the provisions of 430 ILCS 55 “The Hazardous Material Emergency Response Reimbursement Act” shall also apply.

6. 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 BESS representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week I 365 days per year"). Any change in the designated BESS 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 annual basis.

7. 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 BESS 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 BESS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

3. The BESS 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. 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 BESS in accordance with the Agricultural Impact Mitigation Agreement.

(VII) LIABILITY INSURANCE AND INDEMNIFICATION

- A. Commencing with the issuance of any BESS permits that are subject to the permitting regulations set forth in the Zoning Ordinance, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence and 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 Commercial Solar Energy Facility, in coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the BESS Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of any BESS permits that are subject to the permitting regulations set forth in the Zoning Ordinance, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.

The Applicant shall defend, indemnify and hold harmless the County 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 Conditional Use Permit or the construction, operation, maintenance and removal of the BESS 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, the Owner or the Operator under this Ordinance or the Conditional 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. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

(VIII) DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

- A. Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Zoning Board of Appeals as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any permit subject to the regulations set forth in the Zoning Ordinance for the BESS, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide update Financial Assurances to the benefit of the County.

(IX) REMEDIES

- A. The Applicant's failure to materially comply with any of the provisions under the Conditional 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 Conditional Use Permit by the Zoning Board of Appeals.

- B. Prior to implementation of the applicable County procedures for the resolution of default(s), the Zoning Board of Appeals 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.

(X) FEE SCHEDULE AND PERMITTING PROCESSES

A. Application Fees

1. Conditional Use Permit Fees

- a. Prior to processing any Application for a BESS Facility, the Applicant must submit a payment to the Zoning Department for the Conditional Use Permit Application Fee of:
 - (i) 601kW – 2MW \$5,000
2MW and above \$5,000 plus \$1,000 per for every MW over 2MW, not to exceed \$250,000.

- b. All public hearing notices and mailings required to be executed prior to the issuance of a Conditional Use Permit shall be the responsibility of the Applicant. Proof of service regarding the issuance of these notices and/or mailings shall also be supplied to the Zoning Board of Appeals, prior to the issuance of a Conditional Use Permit.

- c. Should the actual costs to the County exceed the submitted Conditional Use Permit Application Fee, the Applicant shall

be responsible for those additional costs. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees or costs due to the County.

2. Zoning Permit Fees

a. Prior to the issuance of a Zoning Permit, Construction Permit and/or Building Permit, the Permit Applicant must remit a Zoning Permit Fee based upon the following schedule:

(i)	5kW – 50kW	\$150
	51kW – 100kW	\$300
	101kW – 600kW	\$500
	601kW – 999kW	\$3,000
	1MW and above	\$2,000 per MW

3. All Costs to be Paid by Applicant or Owner

a. 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.

(XI) HEARING FACILITATOR

A. The Zoning Board of Appeals 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 board 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.

1. 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 facilitator.

(XII) HEARING FACTORS

- A. The Zoning Board of Appeals may approve a BESS Conditional Use Permit application, if it finds the evidence complies with state and federal law and regulations, and with the standards of this zoning code 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 BESS will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
 2. The BESS 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 BESS 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 BESS is not contrary to the objectives of the current comprehensive plan of the County (if any); and
 7. The BESS shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Zoning Board of Appeals.
- B. Conditional Use Permit Conditions and Restrictions.
1. The Zoning Board of Appeals may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the BESS as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.

C. Revocation.

1. In any case where a Conditional Use Permit has been approved for a BESS Facility, the Applicant shall apply for a BESS permit subject to the permitting regulations set forth in the Zoning Ordinance of 2009, as well as 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. If the Applicant fails to apply for any of the aforementioned permits 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 Zoning Board of Appeals, the Conditional Use Permit authorizing the construction and operation of the BESS 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 Zoning Board of Appeals, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Conditional Use Permit.
2. The Conditional Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the BESS or the BESS ceases to operate for more than twelve (12) consecutive months for any reason.
3. Subject to the provisions of Article IX (Remedies), a Conditional Use Permit may be revoked by the Zoning Board of Appeals if the BESS is not constructed, installed and/or operated in substantial conformance with the Zoning Board of Appeals approved Project plans, the regulations of this Ordinance and the stipulated Conditional Use Permit conditions and restrictions.

D. Transferability; Owner or BESS Permittee.

1. The Applicant shall provide written notification to the Zoning Board of Appeals at least thirty (30) days prior to any change in ownership of a BESS of any such change in ownership. The phrase "change in ownership of a Commercial Solar Energy Facility" includes any kind of assignment, sale; lease, transfer or other conveyance of ownership or operating control of the Applicant, the BESS or any portion thereof. The Applicant or successors-in-interest or assignees of the Conditional

Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Conditional Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

E. Modification.

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

(XIII) PERMIT EFFECTIVE DATE

- A. The Conditional Use Permit shall become effective upon approval of the ordinance by the Zoning Board of Appeals.

(XIV) DUPLICATIVE OBLIGATIONS

- A. This Ordinance shall work in conjunction with all other Fulton County Ordinances. A variance or waiver of any requirements created hereunder, that are redundant or duplicative, may be granted by the Zoning Board of Appeals.

(XV) INTERPRETATION

- A. 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 Fulton County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Fulton County nor conflict with any statutes of the State of Illinois.

(XVI) SEVERABILITY

- A. 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.

(XVII) EFFECTIVE DATE

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

That upon passage, this Battery Energy Storage System Siting Ordinance for Fulton County shall be known as Section 9.5 of the Fulton County Zoning Ordinance of 2009.

SECTION 9.6

ORDINANCE CREATING ZONING PROVISIONS FOR THE DISTRIBUTION AND SALE OF MEDICAL & RECREATIONAL CANNABIS

WHEREAS, pursuant to the Counties Code (55 ILCS 5/5-12001 et. seq.) and the Cannabis Regulation and Tax Act (410 ILCS 705/1 et. seq.), the County of Fulton has the authority to determine certain zoning regulations related to the sale and distribution of recreational cannabis and related items;

WHEREAS, the County of Fulton has the authority to authorize or prohibit the sale and distribution within the County of medical and recreational cannabis and related items; and

WHEREAS, The Fulton County Board has determined that it be in the public interest to enact this Ordinance to establish zoning rules and regulations relative to the sale and distribution of medical and recreational cannabis.

NOW, THEREFORE, BE IT ORDAINED, by the County Board of Fulton County, Illinois, as follows:

A new ordinance, establishing Chapter 9.6 of the Fulton County Zoning Ordinance of 2009 shall be created and provide as follows:

CHAPTER 9.6

Section 1: Conditional Use

(A)

(1) Areas designated and established as B-Business District for zoning purposes may have an additional conditionally permitted use as a dispensing organization involving acquiring cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Illinois Cannabis Regulation Tax Act to purchasers or to qualified registered medical cannabis patients and caregivers distribution of recreational cannabis pursuant to the Cannabis Regulation and Tax Act (410 ILCS 705/1 et. seq.). The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to dispensing organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a dispensing organization. The cost of a dispensing organization conditional use permit shall total one thousand dollars and no cents (\$1,000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued.

Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(2) Areas designated and established as AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a craft grower involving cultivating, drying, curing, and packaging cannabis and performing other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization pursuant to the Cannabis Regulation and Tax Act (410 ILCS 705/1 et. seq.). The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to craft growers to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a craft grower organization. The cost of a craft grower organization conditional use permit shall total seven hundred and fifty dollars and no cents (\$750.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(3) Areas designated and established as AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a cultivation center to cultivate, process, transport (unless otherwise limited by this Ordinance), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments . The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to cultivation centers to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a cultivation center. The cost of a cultivation center conditional use permit shall total one thousand dollars and no cents (\$1000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(4) Areas designated and established as B- Business District or AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a processing organization to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product. The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to processing organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a processing organization. The cost of a processing organization license shall total five hundred dollars

and no cents (\$500.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(5) Areas designated and established as B- Business District or AC- Agriculture/Conservation District for zoning purposes may have an additional conditionally permitted use as a transporting organization to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program. The County Board authorizes The Fulton County Zoning Board of Appeals to issue five (5) conditional use permits to transporting organizations to operate within the unincorporated areas of the County and obtain licenses to operate within the unincorporated areas of the County as a transporting organization. The cost of a transporting organization conditional use permit shall total one thousand dollars and no cents (\$1000.00) per year. The conditional use permit fee described in this paragraph shall initially be due whenever the permit is issued, and a renewal fee shall be due January 1 of each subsequent year, regardless of the month and specific date an initial permit is issued. Permits shall be issued at the sole discretion of the Fulton County Zoning Board of Appeals, and said permits may be terminated and revoked at the sole discretion of the Fulton County Zoning Board of Appeals for failure to comply with the permit conditions.

(B) "**Cannabis**" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

"Cannabis-infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

"Craft grower" or **"Craft grower organization"** means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering

state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

"Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by this Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Illinois Cannabis Regulation Tax Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in this Ordinance, dispensary organization shall include a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Pilot Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License.

"Processing organization" or **"processor"** means a facility operated by an organization or business that is licensed by the Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

"Public place" means any place where a person could reasonably be expected to be observed by others. "Public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

"Transporting organization" or **"transporter"** means an organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

(C) It shall be lawful to operate a medical cannabis dispensing organization, recreational cannabis dispensary center, craft grower organization, cultivation center, processing organization, or transporting organization so long as the following applies and is adhered to:

- (1) The organization or center is licensed by the Department of Financial and Professional Regulation through the State of Illinois;
- (2) The organization has a conditional use permit issued by the County of Fulton;
- (3) That the center or organization is not located within 1,000 feet of the property line of a pre-existing public or private preschool, or elementary or secondary school or daycare center, daycare home, group daycare home, part day childcare facility. A dispensing center or organization may not be located in a house, apartment or condominium;
- (4) A center or organization may not be located in the offices of a physician;
- (5) A center or organization may be open from the hours of 7:00 a.m. and 10:00 p.m. on any day of the week, including holidays;
- (6) A center or organization may not utilize amplified music outdoors;
- (7) Cannabis, cannabis infused products and cannabis concentrate may not be displayed or stored in an area accessible to the public;
- (8) A center or organization shall have appropriate security employed and security measures implemented at all time, in accordance with State regulations, to deter and prevent theft of cannabis and unauthorized entrance into areas containing cannabis, cannabis infused products and cannabis concentrate;
- (9) No person, organization or center who is licensed to sell cannabis, at retail, shall sell, give or deliver cannabis to any person as to whom the prohibition thereof any applicable law of the state would apply;
- (10) Organizations and centers shall fully comply with all requirements of the Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et. seq.), and the Cannabis Regulation and Tax Act (410 ILCS 705/1 et. seq.);

(D) It shall be lawful for a person twenty-one (21) years of age or older to purchase and possess from a licensed organization or center cannabis, cannabis infused products, and cannabis concentrate based upon the following restrictions:

(1) For a resident of this State, the possession limit is as follows: (i) 30 grams of cannabis flower; (ii) no more than 500 milligrams of THC contained in cannabis-infused product; (iii) 5 grams of cannabis concentrate; and (iv) for registered qualifying patients, any cannabis produced by cannabis plants grown under subsection (b) of Section 10-5, provided any amount of cannabis produced in excess of 30 grams of raw cannabis or its equivalent must remain secured within the residence or residential property in which it was grown.

(2) For a person who is 21 years of age or older and who is not a resident of this State, the possession limit is: (i) 15 grams of cannabis flower; (ii) 2.5 grams of cannabis concentrate; and (iii) 250 milligrams of THC contained in a cannabis-infused product.

(3) The possession limits found in subsections (1) and (2) of this Section are to be considered cumulative.

(4) No person shall knowingly obtain, seek to obtain, or possess an amount of cannabis from an organization or center that would cause him or her to exceed the possession limit under this Section, including cannabis that is cultivated by a person under the Cannabis Regulation and Tax Act or obtained under the Compassionate Use of Medical Cannabis Pilot Program Act.

(5) A person who violates any of the provisions in this section shall be subject to a fine of not less than \$250.00 but no more than \$750.00. An organization or center granted and issued a license under these provisions shall be subject to a fine of not less than \$500.00 for a violation of any provision herein, in addition to being subject to having their license terminated and revoked for a violation of any provision herein.

(E) Additional Limitations and penalties.

(1) This Ordinance does not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, any of the following conduct:

(a) undertaking any task under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct;

(b) possessing cannabis: (i) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (ii) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (iii) in any correctional facility; (iv) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving; or (v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;

(c) using cannabis: (i) in a school bus, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (ii) on the grounds of any preschool or primary or secondary school, unless permitted for a qualifying patient or caregiver pursuant to the Compassionate Use of Medical Cannabis Pilot Program Act; (iii) in any correctional facility; (iv) in any motor vehicle; (v) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises; (vi) in any public place, except as described in Chapter 9.6, Section 1(E)(6); or (vii) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the Compassionate Use of Medical Cannabis Pilot Program Act;

(d) smoking cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act;

(e) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of Section 11-501 or 11-502.1 of the Illinois Vehicle Code;

(f) facilitating the use of cannabis by any person who is not allowed to use cannabis under this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;

(g) transferring cannabis to any person contrary to this Act or the Compassionate Use of Medical Cannabis Pilot Program Act;

(h) the use of cannabis by a law enforcement officer, corrections officer, probation officer, or firefighter while on duty; or

(i) the use of cannabis by a person who has a school bus permit or a Commercial Driver's License while on duty.

(2) Nothing in this Ordinance shall be construed to prevent the arrest or prosecution of a person for reckless driving or driving under the influence of cannabis if probable cause exists.

(3) Nothing in this Ordinance shall prevent a private business from restricting or prohibiting the use of cannabis on its property, including areas where motor vehicles are parked.

(4) Nothing in this Ordinance shall require an individual or business entity to violate the provisions of federal law, including colleges or universities that must abide by the Drug-Free Schools and Communities Act Amendments of 1989, which require campuses to be drug free.”

(5) Any person or entity granted a conditional use permit pursuant to this Ordinance shall grant the Zoning Officer of Fulton County the authority to come upon the premises for which the conditional use permit was granted to inspect the premises for compliance with this Ordinance. As used in this paragraph, “premises” includes entering into any buildings or structures upon the real property described in the conditional use permit, as well as the curtilage of the buildings or structures.

(6) Except as described in this paragraph, the consumption of cannabis or any cannabis infused product is prohibited upon the premises of any real property described in a conditional use permit granted pursuant to this Ordinance. Any person or entity granted a dispensing organization conditional use permit or a craft grower conditional use permit pursuant to this Ordinance shall have the authority to allow invitees on to the premises of the real property described in such permit for the purpose of consuming cannabis or cannabis infused products in conformity with Illinois law.

Section 2: **Severability**: The provisions of this Ordinance shall be deemed severable, and the invalidity of any portion hereof shall not affect the validity of the remainder hereof.

Section 3: **Repeal**: All ordinances and parts of ordinances in conflict with the provisions of this Ordinance shall be, and the same are, to the extent of such conflict, hereby repealed.

Section 4: **Change of Law**: This Ordinance shall be deemed repealed by operation of law if the Compassionate Use of Medical Cannabis Program Act, as amended, or the Cannabis Regulation and Tax Act, as amended, is adjudged, in a final non-appealable order enforceable in Illinois, or pursuant to subsequent legislative enactment, that the operation of an organization, center or dispensary to be illegal, unconstitutional or in violation of Illinois law. In the event an organization, center or dispensary commences operation under this Ordinance and said ability to operate same becomes illegal, unconstitutional or in violation of Illinois law, all licenses issued pursuant to this Ordinance shall be deemed immediately terminated and vacated, without notice or compensation of any kind.

Section 5: **Effective date**: This Ordinance shall be in full force and effect from and after its passage, adoption, and publication pursuant to law

Section 6: **State Law**: This Chapter does not prohibit home cultivation or prohibit the use of cannabis as authorized by this Illinois Cannabis Regulation and Use Act.

Section 7: **Penalties**: In addition to any other penalty described in this chapter, a violation of this Chapter shall constitute a civil penalty and shall be punishable by a fine not to exceed \$500.00 with each week the violation remains uncorrected constituting a separate offense.

SECTION 10

YARD REGULATIONS

A. MINIMUM YARD REQUIREMENTS:

1. The following minimum yards, measured in feet, shall be provided within the districts indicated below:

<u>DISTRICT</u>	<u>FRONT YARD</u>	<u>SIDE YARD</u>	<u>REAR YARD</u>
AC	50'	20'	50'
R-1	25'	10'	25'
R-2	25'	10'	25'
B	NONE	NONE	NONE
I	25'	NONE	25'

2. Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.
3. For the purpose of side yard regulations, a two-family dwelling or multiple dwelling shall be considered as one building occupying one lot.

B. ADDITIONAL REQUIREMENTS:

1. On corner lots and on lots fronting on two non-intersecting streets, a front yard must be provided on both streets.
2. Where a frontage is divided among districts with different front yard requirements, the deepest front yard required shall apply to the entire frontage.
3. There may be two or more related multi-family, hotel, motel or institutional buildings on a lot, provided that:
 - a. The required yards be maintained around the group of buildings.
 - b. Buildings that are parallel, or that are within 45 degrees of being parallel, be separated by a horizontal distance that is at least equal to the height of the highest building.
3. Those parts of existing buildings that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered.

4. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
5. The minimum width of side yards for schools, libraries, churches, community buildings and other public and semi-public buildings in residential districts shall be 25 feet.
6. No sign, fence, wall or other obstruction to vision exceeding three feet in height above the established street grade shall be erected, or maintained within the area of a corner lot that is included between them at points 30 feet distant from the intersection of the street lines. See Diagram 10-1.

C. EXCEPTIONS TO YARD REQUIREMENTS

1. Where, on the effective date of this ordinance, 40 percent or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:
 - a. Where the building furthestmost from the street provides a front yard not more than 10 feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
 - b. Where this (a) is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.
 - c. Where neither (a) nor (b) is the case, and is within 100 feet of an existing building side only, then the front yard is the same of the existing adjacent building.
2. Sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed 24 inches.
3. Filling station pumps and pump islands may occupy required yards provided however, that they are not less than 15 feet from all lot lines.
4. Signs in accordance with section 7.
5. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than 3-1/2 feet, when so placed as to not obstruct light and ventilation, may be permitted by the building inspector.

6. Open, unenclosed porches (not glassed or screened in) may extend 10 feet into a required yard.
7. Terraces which do not extend above the level of the ground floor (first floor) may project into a required yard, provided these projections be distant at least two feet from any lot line.

SECTION 11

DENSITY REGULATIONS

A. MINIMUM LOT AREA AND WIDTH:

1. The following minimum lot areas and lot widths must be provided in the districts indicated below:

<u>ZONING DISTRICT</u>	<u>LOT WIDTH IN FEET</u>	<u>LOT AREA IN SQUARE FEET</u>
AC	150	43560
R-1	50	5000
R-2	50	5000
B	NONE	NONE
I	NONE	NONE

B. EXCEPTIONS TO LOT AREA AND WIDTH REQUIREMENTS:

1. The minimum lot area and lot width requirements established above may be modified as follows:
 - a. Where a lot of record at the time of the effective date of this ordinance has less area or width than herein required in the district in which it is located; and the owner of such lot does not own any other parcel or tract adjacent thereto; said lot may nevertheless be used for a one-family dwelling or for any non-dwelling use permitted in the district in which it is located upon receipt of a variance from the Zoning Board of Appeals and written permission from the Fulton County Health Department.
 - b. Existing buildings that are in violation of lot area requirements may be remodeled or repaired or added onto, but may not be reconstructed unless made to conform to the lot area requirements.
 - c. In the AC District, the minimum lot area per dwelling may be reduced to 20,000 square feet and the lot width to 100 feet where public water service is available.

In the AC District, the minimum lot area per dwelling may be reduced to 15,000 square feet and 80 feet respectively, where both public water and public sewer services are available and permission is received in writing from the Fulton County Health Department.

SECTION 12

OFF STREET PARKING AND LOADING

A. OFF STREET PARKING REQUIREMENTS:

1. Single-family and two-family dwellings

Two spaces for each family in the dwelling unit.

2. Multiple dwellings

One and one-half spaces for each dwelling unit.

3. Rooming and boarding houses, sororities and fraternities

One parking space for each 200 square feet of floor area.

4. Private club or lodge

One space for each 400 square feet of floor area.

5. Church or Temple

One parking space for each four seats in the main auditorium.

6. Schools

For high schools, colleges and universities - 10 spaces per classroom.

For elementary schools - 2 spaces per classroom.

7. Hospitals

Two parking spaces for each bed.

8. Sanitarium or Institutional Home

One parking space for each three beds.

9. Funeral Homes

Ten parking spaces for each chapel - plus one space for each funeral home vehicle - plus one space for each family residing on the premises.

10. Auditoriums, theaters, restaurants, taverns and other places of public assembly

One parking space for each five seats.

11. Community center, library, museum or similar public or semi-public building

One parking space for each 300 square feet of floor area in the building.

12. Hotel or motel

Five parking spaces – plus one space for each sleeping room or suite.

13. Medical office building

Buildings in which 20 per cent area or more of the gross area is occupied by members of the healing profession. One parking space for each 200 square feet of the gross area used for this purpose.

14. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or other similar establishments

Two parking spaces for every three employees on the maximum shift - plus space to accommodate all trucks and other vehicles used in connection therewith.

15. All non-residential buildings - other than those specified above

One space for each 300 square feet of floor area.

B. RULES FOR COMPUTING PARKING SPACES

1. In computing the number of required off-street parking spaces, the following rules shall apply:
 - a. Floor area shall mean the gross floor area of the specific use, excluding any floor or portion thereof used for parking as herein defined.
 - b. Where fractional spaces result, the parking spaces required shall be the nearest whole number.
 - c. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
 - d. Whenever a building or use constructed or established after April 9, 1991 is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, parking spaces shall be provided on the basis of the enlargement or change.

Whenever a building or use existing prior to April 9, 1991 is reconstructed or is enlarged to the extent of 20 per cent or more in floor area, said building or use in its entirety shall then and thereafter comply with the parking requirements set forth herein. Any enlargement or change in use of less than 20 per cent of the gross floor area shall be provided with parking based on the enlargement or change.

C. LOCATION OF REQUIRED PARKING SPACES:

1. All parking spaces required herein shall be located as follows:
 - a. The parking spaces required for residential buildings or uses shall be located on the same lot with the building or use served. The parking spaces required for any other building or use may be located on an area within 300 feet of said building and two or more owners of buildings may join together in providing the required parking spaces. Where the required parking spaces are not located on the same lot with the building or use served, the usage of the lot or tract upon which said parking spaces are provided shall be restricted by an instrument of record describing the premises for which said parking is provided and assuring the retention of such parking so long as required by the Ordinance.
 - b. No parking spaces may be located in a front yard in any residential district, except in conjunction with an established drive-way.

D. MINIMUM IMPROVEMENT AND MAINTENANCE STANDARD:

1. All open parking areas containing 10 or more parking spaces, provided in compliance with this Ordinance, shall be surfaced with a durable, dust proof surface consisting of concrete, bituminous concrete, or compacted gravel or crushed stone properly sealed and surface treated as approved by designated engineering personnel of the County.

The parking areas shall be maintained in a usable dust proof condition and graded and drained to dispose of all surface water. Whenever lighting is provided, it shall be so hooded or shielded as to reflect the light away from abutting or neighboring property, including public right-of-ways. Shrubs and standard trees may be required to screen adjacent residential uses.

SECTION 13

NON-CONFORMING USES

A. EXISTENCE OF A NON-CONFORMING USE:

Whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Appeals after public notice and hearing and in accordance with the rules of the Board.

B. NON-CONFORMING USES NOT VALIDATED:

A non-conforming use in violation of a provision of the ordinance which this Ordinance repeals shall not be validated by the adoption of this Ordinance, or by any amendments to this Ordinance.

C. INTERMITTENT USE:

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on one part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.

D. NON-CONFORMING USE OF BUILDINGS:

Except as otherwise provided herein, the lawful use of a building existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification.

Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The non-conforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of the enactment of this Ordinance.

E. DESTRUCTION OF A NON-CONFORMING USE:

A building which has been damaged by any cause whatsoever to the extent of more than 50 per cent of the fair market value of the building immediately prior to damage, shall not be restored except in conformity with the regulations of this Ordinance, and all rights as a non-conforming use are terminated. If a building is damaged by less than 50 per cent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within 12 months of the date of such damage.

F. EXPANSION OF A NON-CONFORMING USE:

Non-conforming uses shall not be extended or enlarged, either on the same or on adjoining property.

G. CONDITIONAL USES NOT NON-CONFORMING:

Existing non-conforming uses which are eligible for conditional use permits shall not be non-conforming uses, but shall be required to obtain a conditional use permit for any alteration, enlargement or extension.

SECTION 14

ADULT USE REGULATIONS

A. GLOSSARY OF TERMS:

1. **Adult Bookstore:** An establishment having as a substantial portion of its stock-in-trade, books, magazines, video recordings or films for sale or for viewing on the premises, and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” or an establishment with a segment or section devoted to the sale or display of such material.
2. **Adult Motion Picture Theater:** A building used regularly and routinely for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
3. **Adult Entertainment Cabaret:** A public or private establishment which is licensed to serve food or alcoholic beverages or both, which features topless dancers, strippers, male or female impersonators, mud wrestlers, or similar entertainers.
4. **Adult Use:** Any adult bookstore, adult motion picture theater, adult entertainment cabaret, body shop or model studio, massage establishment, tattoo parlor, or any similar use.
5. **Body Shop or Model Studio:** Any public or private establishment:
 - a. which describes itself as a body shop or model studio.
 - b. where, for any form of consideration or gratuity, figure models who display “specified anatomical areas” are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.
 - c. where, for any form of consideration or gratuity, nude or semi-nude dancing, readings, counseling sessions, body-painting, or other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” are provided for observation by or communication to persons paying such consideration or gratuity.

6. **Massage Establishment:** Any public or private establishment where for any form of consideration or gratuity, a “massage” is provided to persons paying such consideration or gratuity. Excluded from this definition is any office operated by a physician or chiropractor, licensed under the Illinois Medical Practice Act.
7. **Massage:** Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the human body with the hands or other parts of the human body or with aid of any mechanical or electrical apparatus or appliance, with or without supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparation.
8. **Specified Anatomical Areas:**
 - a. less than completely and opaquely covered:
 - (1) human genitals or pubic region.
 - (2) human buttocks.
 - (3) human female breasts below a point immediately above the top of the areola.
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
9. **Specified Sexual Activities**
 - a. Human genitals in a state of sexual arousal or stimulation.
 - b. Acts, or representations of acts, of human masturbation, sexual intercourse, sodomy, bestiality, oral copulation, or flagellation.
 - c. Acts, or representations of acts, of fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
 - d. Excretory functions as part of or in connection with any activity set forth in (b) or (c) above.
10. **Tattoo Parlor:** Any establishment where an indelible mark, figure or writing is fixed upon the body by insertion of pigment under the skin with needles or other device, or by the production of scars.

11. SPECIFIED REGULATION FOR ADULT USES:

- a. An adult use shall not be allowed within 1,000 feet of another existing adult use.
- b. An adult use shall not be allowed within 1,000 feet of an existing residential development containing five or more dwellings in a compact area of 10 or less acres.
- c. An adult use shall not be allowed within 1,000 feet of a pre-existing school, place of worship, public playground or park.
- d. For the purpose of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the lot containing the adult use to the nearest property line of the lot containing the other adult use or school, place of worship, residential zoning district or residential development.

SECTION 15

ZONING BOARD OF APPEALS

A. ZONING BOARD OF APPEALS

1. A Board of Zoning Appeals is hereby created. Such Board shall consist of seven regular members, all from separate townships (55 ILCS 5/5-12010) to be appointed by the presiding officer of the County Board with the advice and consent of the County Board, all of who shall be residents of Fulton County and all of whom shall be persons with knowledge of construction, architecture, fine arts, engineering, landscape architecture or law. The terms of all members shall be five years and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified.

One of the members so appointed shall be named as chairman at the time of his appointment, and in case of vacancy the appointing power shall designate a chairman.

The appointing authority shall have the power to remove any member of the Zoning Board of Appeals for cause, after public hearing. Vacancies shall be filled by the appointing authority for the unexpired term of any member whose place has become vacant. The members of the Zoning Board of Appeals shall be compensated on a per diem basis with a mileage allowance for travel, the amounts to be determined by the County Board.

2. The Zoning Board of Appeals shall organize and adopt rules in accordance with the provisions of this ordinance.

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times and places within the County as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the Fulton County Zoning Office and shall be a public record.

B. THE POWERS OF THE ZONING BOARD OF APPEALS ARE:

1. To interpret the Ordinance, being:
 - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Officer in the enforcement of this Ordinance or of any Ordinance adopted pursuant thereto.
 - b. To permit the extension of a district boundary line of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of this Ordinance.
 - c. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this Ordinance where the street layout of the ground varies from the street layout as shown on the map aforesaid.
2. To permit the following exceptions:
 - a. Use of premises for public utility* and railroad purposes, or for a communication tower or broadcasting station.

(public utility*) applies only to above ground structures such as buildings, sub-stations, etc. Does not apply to underground water lines or wires, or to above ground utility poles and lines which do not require a permit.

- b. To allow for the construction of one small storage building on a vacant lot, providing that the lot is located either across the street or alley, or within 250 feet of the applicant's residence and under the same ownership as the applicant's residence and providing that the building will not exceed 100 square feet in total floor space.
- c. The Zoning Board of Appeals may impose other conditions to insure that the use will not be detrimental to the surrounding area. The building must also meet all other applicable regulations for accessory buildings as per Section 6 of this Ordinance.
- d. To allow (in the Business District) a residence as an accessory use to the business or main use of the property. The residence must in some way serve the principal business use and be located on the same building lot, or on abutting property which is under the same ownership. The residence, as an accessory use to the business, must not alter or be detrimental to the character of the surrounding commercial area.

The purpose of this exception is to allow for an owner/manager of a business to reside on the same lot as his business. The residence must meet all other applicable regulations for dwellings.

3. To permit the following variations:

- a. Vary the yard regulations where there is an exceptional or unusual physical condition of a lot, which condition is not generally prevalent in the neighborhood and which condition when related to the yard regulations of this Ordinance would prevent a reasonable or sensible arrangement of buildings on the lot.
- b. Vary the sign regulations where there is a reasonable and sensible need to do so.
- c. Vary the parking regulations where an applicant demonstrates conclusively that the specific use of a building would make unnecessary the parking spaces required by this Ordinance, or if located in a City or Village, the applicant must provide a written statement from the proper authority that sufficient parking exists elsewhere for the applicant's proposed use of his property.
- d. A hardship variance to allow for the temporary placement of a mobile home on the same property with an existing dwelling, providing that a special temporary hardship exists and a signed agreement that the mobile home will be removed when the particular hardship no longer exists.
- e. To allow construction of an accessory building in a front yard, where there is an exceptional or unusual physical condition which would prevent a reasonable or sensible arrangement of buildings on the lot.
- f. To vary the height requirements of structures, as per section 9 of this Ordinance.

4. To grant conditional use permits:

- a. To hear and decide upon applications for conditional uses specifically listed in the district regulations of this Ordinance. Before authorizing the issuance of such a conditional use permit, the Zoning Board of Appeals may impose such conditions as will in its judgment, insure that:
 - (1). The establishment, maintenance, or operation of the conditional use will not be substantially detrimental to, or substantially endanger the public health, safety, morals, comfort, general welfare or the environment.
 - (2). The conditional use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

(3). The establishment of the conditional use will not substantially impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

(4). Adequate utilities, access roads, drainage, and/or other necessary facilities will be provided.

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

(6). The applicant shall have one year from date of issuance to implement the conditional use or the permit shall become null and void.

(7). If at any time after the conditional use has been established, the use is discontinued for a period of one year or more, the conditional use permit shall become null and void.

(8). The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located and the Zoning Board of Appeals shall find that there is a public necessity for the conditional use.

5. To grant special home occupation permits:

- a. It is recognized that there are certain part-time or full-time occupations which could be carried out within the confines of one's property which theoretically could be in violation of this Ordinance, but by their nature are not commercial enough to be objectionable.

Therefore, the Zoning Board of Appeals is empowered to grant a "Special Home Occupation permit" to the applicant and his immediate family living in the home, after public hearing, for those occupations which meet the following conditions:

- (1). The applicant shall be the resident of the home for which the permit is being issued.
- (2). No one other than the immediate family is employed.
- (3). Off street parking is provided.
- (4). Signs in accordance with the regulations of section 7 of this Ordinance.

- (5). No operations are involved which would create noise levels higher than that which would be associated with normal household or hobby activities.
 - b. The Zoning Board of Appeals may impose those conditions upon the “Special Home Occupation permit” which will insure that such use shall not become objectionable.
 - c. “Special Home Occupation permits” are not transferrable.
 - d. The applicant shall have one year from the date of issuance to implement the “Special Home Occupation permit” or it will become null and void.
 - e. If at any time after the home occupation has been established, it is discontinued for a period of one year or more, the “Special Home Occupation Permit” shall become null and void.
6. To conduct public hearings on text amendments and map amendments
- a. To gather evidence, develop findings of facts and submit said findings to the Fulton County Board, along with its recommendation regarding the proposed amendments.

SECTION 16

ENFORCEMENT OF THE ORDINANCE

A. ZONING ENFORCEMENT OFFICER

1. Construction Permit: No building shall hereafter be erected, reconstructed or structurally altered, nor shall any work be started upon same until a construction permit for same has been issued by the Zoning Enforcement Officer, which permit shall state that the proposed building complies with all the provisions of this Ordinance.
2. Occupancy Permit: Upon completion of any construction requiring a Construction Permit, the new construction shall not be used or occupied until a certificate of Occupancy has been issued by the Zoning Enforcement Officer. The Certificate of Occupancy shall state that the new construction complies with all provisions of this Ordinance.
3. Appointment: The Chairman of the Fulton County Board shall appoint, with the approval of the Fulton County Board, a Zoning Enforcement Officer, whose duty it is to enforce this Ordinance.
4. Duties: It shall be the duty of the Zoning Enforcement Officer to enforce this Ordinance. The Officer shall receive applications required by this Ordinance, issue permits and furnish the prescribed certificates. The Officer shall examine the premises for which permits have been issued, and shall make necessary inspections to see that the provisions of law are complied with.

The Officer shall, when requested by the Chairman of the Fulton County Board, or when the interests of the County so require, make investigations in connection with matters referred to in this Ordinance and render written reports on the same. For the purpose of enforcing compliance with law, the Officer shall issue such notices or orders as may be necessary.

5. Inspections: Inspections shall be made by the Zoning Enforcement Officer or a duly appointed assistant.
6. Rules: For carrying into effect its provisions, the Zoning Enforcement Officer may adopt rules consistent with this Ordinance.
7. Records: The Zoning Office shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued.

The Zoning Office shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours, but shall not be removed from the Zoning Office.

8. Cooperation of other officials: The Zoning Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Engineer in fixing grades, of the Sheriff in enforcing orders, of the State's Attorney in prosecuting violations, and of other officials.

B. PERMITS:

1. When required: It shall not be lawful to commence the construction or alteration of a building or structure without first filing with the Zoning Office an application in writing and obtaining a formal permit.
2. Form: An application for a permit shall be submitted in such form as the Zoning Enforcement Officer may prescribe. Such application shall be made by the owner or lessee, or agent of either, or the architect, engineer, or builder employed in connection with the proposed work.

If such application is made by a person other than the owner of record, it shall be accompanied by a signed statement from the owner of record that the person making the application is authorized to make such application.

Such application shall contain the full names and addresses of the applicant and of the owner. Such application shall describe briefly the proposed work, and shall give such additional information as may be required by the Zoning Enforcement Officer for an intelligent understanding of the proposed work. Such application shall be accompanied by payment of such fees as the Fulton County Board may determine from time to time.

3. Plans: Applications for permits shall be accompanied by a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction and of all existing buildings.
4. Amendments: Nothing in this section shall prohibit the filing of amendments to any application or to a plan or other record accompanying same, at any time before the completion of work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

5. Action on application: It shall be the duty of the Zoning Enforcement Officer to examine applications for permits within a reasonable time after filing. If, after examination, he finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, he shall approve such application and issue a permit for the proposed work as soon as practicable. If his examination reveals otherwise, he will reject such application, noting his findings in a report to be attached to the application and delivering a copy to the applicant.
6. Condition of the permit: All work performed under a permit issued by the Zoning Enforcement Officer shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to.

It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram, showing the proposed change in conditions, shall have been filed and approved, provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

7. Signature to permit: Every permit issued by the Zoning Officer under the provisions of this Ordinance shall have his signature affixed thereto, but this shall not prevent him from authorizing a subordinate to affix such signature.
8. Limitation: A permit under which no work is commenced within one year after issuance shall expire by limitation. The permit may be renewed for one additional year by paying a permit renewal fee. If no work is commenced at the end of the renewal year, the permit shall become null and void and a new application and permit will be required.
9. Posting of permit: A copy of the permit shall be kept on the premises in plain view and open to public inspection at all times from the commencement of the work to the completion thereof.
10. Revocation: The Zoning Enforcement Officer may revoke a permit or approval issued under the provisions of this Ordinance in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
11. Certificate of occupancy for a building: No building requiring a building permit shall be occupied before a Certificate of Occupancy has been issued. A certificate of Occupancy shall be issued within a reasonable amount of time after the request for said certificate shall have been made by the applicant to the Zoning Enforcement Officer after the erection or alteration of such building shall have been completed, in conformity with the provisions of these regulations.

Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the Zoning Officer for a period not exceeding one year, during the completion of alterations or during partial occupancy of a building pending its completion.

Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the tenants relating to the use or occupancy of the premises or any other matter covered by this Ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

12. Content of certificate of Occupancy: Certificates of Occupancy shall state that the building complies with all the provisions of these regulations. A record of all certificates shall be kept on file in the Zoning Office and shall be a matter of public record.
13. Fees: The application fee for a construction permit for the construction, reconstruction or alteration of a building or structure shall be determined by the Fulton County Board. The fee shall be in an amount to cover the approximate cost of the application process and under no condition, shall said sum or any part thereof be refunded.

SECTION 17

BOUNDARIES AND DISTRICTS

- A. Where uncertainty exists with respect to the boundaries of the various districts as shown on the District Map accompanying and made a part of this Ordinance, the following rules apply:
1. The District boundaries are either streets or alleys unless otherwise shown, and where the districts designated on the map accompanying and made a part of this Ordinance are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
 2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the district map accompanying and made a part of this Ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
 3. In subdivided property, the district boundary lines on the map accompanying and made a part of this Ordinance shall be determined by use of the scale appearing on the map.

SECTION 18

INTERPRETATION

- A.** In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control.

SECTION 19

AMENDMENT OF THE ORDINANCE

- A.** The Fulton County Board may, from time to time, on its own or on motion or petition, after public notice and hearing, as provided by law, and after report from the Zoning Board of Appeals, amend, supplement or change the boundaries or regulations herein or subsequently established.

- B.** Before any action shall be taken as provided in this section, the party or parties proposing or recommending a change in the District regulations or District boundaries shall pay to the Fulton County Zoning Office, which will be deposited with the Fulton County Treasurer, a sum to be determined by the Fulton County Board to cover the approximate cost of this procedure and, under no condition, shall said sum or any part thereof be refunded for failure of said change to be adopted by the Fulton County Board.

SECTION 20

VIOLATIONS AND PENALTY

- A.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper authorities of the County, or any person the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in equity to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct business, or use in or about such premises.
- B.** Any person who violates the terms of this Ordinance shall be guilty of a petty offense punishable by a fine not to exceed \$500.00 with each week the violation remains uncorrected constituting a separate offense.

SECTION 21

VALIDITY

- A.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. All other resolutions and parts of resolution in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 22

WHEN EFFECTIVE

- A.** This resolution shall be effective from and after the 15th day of December, 1970 and as amended by Ordinance dated the 9th day of April, 1991. (Amended March 8, 1994, June 13, 1995, November 12, 1996, September 9, 1997, June 9, 1998 and June 14, 2005.)

APPENDIX A

Zoning Fee Schedule for Fulton County

Residential (R-1 & R-2) & Agricultural Conservation (AC)	Zoning Permit Fees
Dwellings & Manufactured Homes	Base Cost: \$125 Plus: .25¢ per Square Foot
Mobile Homes	\$500
Accessory Structures	Structures 100 square feet or less: No Charge Structures 101 square feet or more: .15¢ per square foot w/Minimum Fee of \$100
Accessory Structures Primarily Used for Agricultural Purposes <i>*Agricultural Conservation (AC) District ONLY</i>	No Fee Charged
Swimming Pools (Above Ground & In Ground)	\$75
Basements <i>*Separate fee from Dwelling/Manufactured Homes/Mobile Homes</i>	.15¢ per Square Foot
Small Scale Solar Energy Systems (Personal Use) <i>*Does Not Require a Conditional Use Permit</i>	5kW - 50kW: \$150 51kW - 100 kW: \$300 101kW - 600 kW: \$500 601kW - 999kW: \$3,000 1MW and Above: \$2,000 per MW

Business (B) & Not-for-Profit	Zoning Permit Fees
All Structures in Areas Zoned "B" (Unless otherwise stated)	Base Cost: \$125 Plus: .27¢ per Square Foot

Industrial (I)	Zoning Permit Fees
All Structures in Areas Zoned "I" (Unless otherwise stated)	0.3% of Construction Cost

Miscellaneous	Zoning Permit Fees
Commercial Solar Energy Systems <i>*Requires a Conditional Use Permit</i>	5kW - 50kW: \$150 51kW - 100 kW: \$300 101kW - 600 kW: \$500 601kW - 999kW: \$3,000 1MW and Above: \$2,000 per MW <i>*Based on total kW or MW Nameplate Capacity</i>
Tier 1: Battery Energy Storage Systems (BESS)	5kW - 50kW: \$150 51kW - 100 kW: \$300 101kW - 600 kW: \$500 <i>*Based on total rated Power Capacity</i>

Tier 2: Battery Energy Storage Systems (BESS) <i>*Tier 2 BESS Require a Conditional Use Permit</i>	601kW - 999kW: \$3,000 1MW and Above: \$2,000 per MW <i>*Based on total rated Power Capacity</i>
Cellular Towers, Communication Towers, Utilities Governed by Height, WECS & Commercial WECS	\$25.00 per Vertical Foot of Tower Height

Large Signs <i>*Permissible in areas zoned AC, B or I</i>	\$2.00 per square foot (Based on square ft. surface area of all advertising faces of the sign)
Small Signs	\$1.00 per square foot \$25.00 Minimum (Based on square ft. surface area of all advertising faces of the sign)
Utility Tower Equipment Replacements & Additions	\$800 per site
Special Home Occupation Permit Renewal	\$25.00 Annually
Demolition Permits	\$50 per permit
Plat Review Fee (Includes Subdivision Plats and Vacation Plats)	Base Cost: \$100 Plus: \$50 per parcel
Zoning Certification & Flood Plain Certification Letters	\$20.00 Each
NSF Checks	\$35
Copies	.25¢ per page
Printed Aerial Maps, Aerial Photographs & Survey/Plat Copies	8.5" x 11": \$6.00 8.5" x 14": \$10.00 11" x 17": \$12.00 22" x 34": \$24.00 34" x 44": \$26.00

Conditional Use Permits	Conditional Use Permit Fees
Conditional Use Permits (Other than specific types stated below)	\$600
Commercial Solar Energy Systems	601kW - 2MW: \$5,000 2MW and Above: \$5,000 plus \$1,000 per every MW over 2MW, not to exceed \$250,000
Small WECS & Commercial WECS	1kW - 499kW: \$5,000 500 kW and Above: \$5,000 plus \$1,000 per every MW over 2MW, not to exceed \$250,000
Tier 2: Battery Energy Storage Systems (BESS)	601kW - 2MW: \$5,000 2MW and Above: \$5,000 plus \$1,000 per every MW over 2MW, not to exceed \$250,000

Conditional Use Permit Renewal	\$25.00 Annually
Variances & Special Home Occupation	\$600
Rezoning	\$600

APPENDIX B

DEFINITIONS

For the purpose of this Ordinance certain terms are hereby defined.

Words used in the present tense shall include the future;

the singular number shall include the plural and the plural the singular;

the word “building” shall include the words “structure” and “premises;”

the word “shall” is mandatory and not directory;

the words “used” or “occupied” include the words “intended,” “designed,” or “arranged to be used or occupied;”

the word “lot” includes the words “plot” or “parcel;”

the word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Any word not herein defined shall be as defined in any recognized Standard English dictionary.

Abutting Property

Property that is contiguous to another property along a common boundary line. The term may also be defined in certain zoning ordinances to include properties located on opposite sides of an alley.

Access

A means of entering or exiting a property. Zoning and subdivision regulations generally require a lot to directly abut a public street or highway or a private road constructed to specified public standards. This requirement not only ensures the ability of the property owner to make use of his property but provides for the ingress and egress of emergency vehicles, such as ambulances and fire trucks.

Accessory Building

A detached building whose purpose is related to, but subordinate to, that of the principal building on a given parcel of land. Detached garages, tool sheds, barns and non-commercial greenhouses are all examples of accessory buildings.

Accessory Structures

Other structures whose purpose is related to, but subordinate to, that of the principal building on a given parcel of land. Examples of accessory structures are: swimming pools, tennis courts, ornamental gates, barbecue ovens, swing sets, play houses, satellite dishes and clotheslines.

Accessory Use

A subordinate use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Adjoining

Touching or bounding at a point or line.

Agricultural Activity

Agricultural activity, including forests and forest products, harvest and management, dairy farming, livestock grazing and pasturage, truck gardening, the raising of crops, fruit and nursery stock, fish farms, animal kennels and fur bearing animal farms, and the harvesting, processing, packaging, packing, shipping, and selling of products produced on the premises, and incidental farm occupations and uses such as machinery, farm equipment and domestic repair and construction, excluding commercial feed lots.

Alley

A public or private thoroughfare which affords only a secondary means of access to abutting property.

Amusement Facility

An outdoor recreational area at which amusements rides, thrill rides, games of chance and other forms of entertainment are offered, often in conjunction with beach or pool facilities. Amusement facilities vary in size from less than one acre to hundreds of acres and vary also in the quality and quantity of facilities. They are usually privately owned, commercial operations, but a few are municipally owned.

Area Requirements

Area requirements refer to the numerical standards established for a lot or yard in a particular zone.

Automobile Service station

Any land, building, structure, or premises used for the sale at retail of motor vehicle fuels, oils, or accessories, or for servicing or lubricating motor vehicles or installing or repairing parts and accessories, but not including the repairing or replacing of bodies, or fenders of motor vehicles or painting motor vehicles, public garages, and the open storage of rental vehicles or trailers.

Auto-body Shop

The repairing or replacing of body parts, such as fenders, etc., of motor vehicles, or painting of motor vehicles.

Basement

A story wholly or partly below ground level.

Bed and Breakfast Home stay

A private, owner-occupied residence with one to three guest rooms and is subordinate and incidental to the main residential use of the building.

Bed and Breakfast Inn

Is operated primarily as a business, even though the owner may live on the premises. Bed and Breakfast Inns typically have four to 20 guest rooms.

Boardinghouse

A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.

Buildable Area

The land area of a given lot that is potentially available for construction after all zoning and other municipal requirements have been fulfilled. Buildable area would exclude required yards and areas on which construction may be prohibited, such as a flood plain.

Building

Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals, property, or goods.

Building Height

The vertical distance from the grade to the highest point of a roof.

Building Line

A line established by zoning ordinance requirements, that delineates the boundary beyond which there may be no construction and buildings may not extend.

Building Permit

A permit that the County Zoning Office must issue before such activities as construction, substantial rehabilitation or alteration, or installation of manufactured housing can legally take place. When a building permit application is received, proposed plans are reviewed for compliance with the zoning regulations. The reviewer - usually the Zoning Enforcement Officer - will compare the proposal to the zoning ordinance, which may include requirements for use, setback, height, parking, proposed land coverage and the use of signs.

It is through this procedure that zoning is enforced on a daily basis. If the plans differ from permitted zoning standards, a permit will not be issued at that time. The applicant can, however, have the determination to deny a building permit reviewed by the Zoning Board of Appeals.

Camper Vehicle

Any of the following: Camping trailer, motor home, mini-motor home, travel trailer, truck camper, or a van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business.

Camper Park

An area of land designed to be occupied by camper vehicles, either free of charge, or for revenue purposes to be used by parties having other permanent residence, or not an owner of

land upon which the camper park is located. The term shall include any buildings, structures, tents, camper vehicles, enclosures or land uses such as vehicle tracks or trails incidentally used as a part of such camper park.

Clinic

An establishment where patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

Club

Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business.

Conditional Use

A use allowed in a zoning district after a permit is granted by the Board of Appeals according to provisions of section 15§B4.

Commercial Feed Lot

An area of land devoted to raising and feeding of livestock where the operation is not a part of normal agricultural activity.

Conservation Area

Area designated to conserve and protect natural resources. The planned management of a natural resource to prevent exploitation, destruction, or neglect.

Corner Visibility Zone

An area of a corner lot that is included between them at points 30 feet distant from the intersection of the street lines. (See diagram 10-1.)

Deck

Something resembling the deck of a ship; as a story or tier of a building, a flat floored roofless area adjoining a house.

District

Means a part of the County wherein regulations of this Ordinance are uniform.

Dwelling

Any building or portion thereof which is designed and used exclusively for residential purposes.

Dwelling, Multiple

A building designed for or occupied exclusively by three or more families.

Dwelling, Single-Family

A building designed for or occupied exclusively by one family.

Dwelling, Two-Family

A building designed for or occupied exclusively by two families.

Dwelling Unit

One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein.

Easement

The pathways over which utilities and drain ways run.

Family

One or more persons related by blood, marriage or adoption, occupying a dwelling unit as an individual housekeeping organization. A family may not include more than two persons not related by blood, marriage, or adoption.

Farm

See Agricultural Activity.

Fence

A structure for enclosure or screening.

Floor Area

The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement or cellar when said basement or cellar space is used for storage or incidental uses.

Forest Preserve

See Conservation Area.

Frontage

All the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, than all of the property abutting on one side between an intersecting street and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.

Garage, Private

A detached accessory or portion of a main building housing the automobiles of the occupants of the premises, but not commercial vehicles.

Garage, Public

A building or portion thereof; other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage

Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Grade

The average level of the finished surface of the ground adjacent to the exterior walls of the building.

Group Home

A residential facility designed to accommodate a group of individuals, usually physically impaired or with emotional or social problems, in a non-institutional, neighborhood setting. Often located in areas zoned for single-family homes, group homes are intended to serve as single housekeeping units. They are usually licensed by a governmental entity and provide a supervised setting for approximately five to 25 individuals. Their residents receive a variety of health related and social services through sponsoring public, voluntary nonprofit or proprietary agencies, which are subject to state and federal regulations.

Hardship

An unusual situation on the part of an individual property that will not permit the full utilization of property that is given to others in the community. A hardship exists only when it is not self-created or it is not economic in nature. In other words, a true hardship exists only when the literal interpretation of the requirements of the ordinance put an individual in an unusual circumstance and would deny the right to use the property for any purpose, or create an unnecessary burden, unless relief is granted.

Home Occupation

Any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a nameplate, not more than one square foot in area, or no display that will indicate from the exterior that the building is being utilized in whole or part for any purpose other than that of a dwelling. No person is employed other than a member of the immediate family residing on the premises and no mechanical equipment is used except such as is customary for purely domestic household purposes.

Hotel

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests in contradistinction to a boardinghouse or lodging house as herein defined.

Hunting Clubs - with improvements

Club house/shelter or other structures.

Hunting Clubs - without improvements

No buildings. Hunting blinds allowed. Improvements do not include hunting blinds or deer stands.

Institution

A non profit establishment for public use.

Junk Yard

A piece of property, often without a building, employed for the storage and sale of used and frequently non-functioning merchandise. Many junk yards in the United States store and sell only automobile parts, so that the term is often synonymous with this use. A junk yard may, however, contain any form of junk - such as scrap paper, glass or metal - that is usually intended for resale.

Generally an outdoor use, these yards tend to be unsightly, dirty and noisy. Zoning ordinances usually restrict junk yards to heavy industrial areas or to commercial strips where automobile repair and sales are common uses. Screening is also required by many ordinances.

In addition, the Highway Beautification Act of 1965 required that junk yards within 1,000 feet (304.8 meters) of interstate highways and primary system roads be screened or removed. States not complying would suffer a 10 per cent reduction in highway funding. The federal legislation also provided a 75 per cent cost-sharing of the program.

Kennel

An establishment where small animals are boarded for compensation or where dogs are bred or raised on a commercial scale.

Landlocked

A parcel of land owned by one person that has no access to a public road or right-of-way, except over land belonging to others.

Landscaped Area

An area that is permanently devoted and maintained to the growing of shrubbery, grass and other plant material.

Loading Space

A space within the main building or on the same lot for the standing, loading, or unloading of trucks.

Lodging or Rooming House

Same as "Boardinghouse."

Lot

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including the main building together with its accessory buildings, open spaces and parking spaces required by this Ordinance, and having its principal frontage upon a road or street. (see Diagram AB-1)

Lot, Corner

A lot abutting upon two or more streets at their intersections. (see Diagram AB-1)

Lot, Depth

The distance between the front lot line and the rear lot line, often measured from the midpoint of each line. (see Diagram AB-1)

Lot, Double Frontage

A lot having a frontage on two nonintersecting roads, as distinguished from a corner lot. (see Diagram AB-1)

Lot, Interior

A lot other than a corner lot. (see Diagram AB-1)

Lot Line

A property line that bounds a plot of ground described as a lot in county records. Lot lines are located at the front, rear and sides of lots and may separate a lot from public property, from roadways or from other lots. (see Diagram AB-1)

Lot, Width

The width of a lot at the front yard line. (see Diagram AB-1)

Lot of Record

A lot or parcel of land the plat or deed of which has been recorded prior to the adoption of this ordinance.

Main Building

See Principal Building.

Metes and Bounds

A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent feature. It is the most precise of the three most common forms of urban land description.

Mobile Home

A portable housing unit consisting of a chassis that sits on axles and wheels. It is transported to a housing site, sometimes in sections, where it is attached to utility lines and frequently placed on a foundation. Often, its axles and wheels are removed and it remains permanently at that site, in contrast to the much more mobile recreational vehicle or motor home, which is not designed for long-term habitation.

Mobile Home Park

Property that is divided into sites for rent or purchase by owners of mobile homes and is to be used for the permanent parking of the homes.

Modular Home or Housing unit

A prefabricated or factory-built dwelling unit, constructed in a modular manner with elements attached together which may be transported to a building site, all means of transportation removed and the modular dwelling unit then attached to a permanent foundation.

Motel, Motor Court, Motor Lodge or Tourist Court

Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients.

Motor Vehicle

A motorized device intended for the transportation of any person or property for profit or pleasure, either free of charge or for revenue purposes. This definition specifically includes automobiles, trucks, motorcycles, motor bikes, go-carts, all-terrain vehicles, stock cars and any other recreational vehicles as herein defined.

Noise Abatement Barrier A row of living plants used as a buffer between properties or earth berms used as a buffer between properties that is at least six (6) feet in height. Noise abatement barriers made of living plants shall consist of shrubbery or trees which remain green throughout the year, such as conifer or the like, and be at least six (6) feet in height. Earth berms used for noise abatement shall be seeded and shall not have a slope greater than 3:1. If a combination of living plants and an earth berm are utilized as a noise abatement barrier, the earth berm shall be at least four (4) feet in height. When an earth berm is used as a noise abatement barrier, and is not at least six (6) feet in height, the earth berm shall be at least four (4) feet in height and shall have living plants on its surface at least two (2) additional feet in height to reach the necessary height of six (6) feet for noise abatement purposes.

Nonconforming Lot

A lot that does not now conform to the requirements of the zoning district in which it is located, but that prior to enactment or amendment of the zoning ordinance did meet community requirements. Another term for this type of lot is a substandard lot of record. A lot may be nonconforming with respect to total lot area; any of its dimensions, such as width; or some other characteristic of the lot.

Zoning ordinances generally allow the lot to remain in use under this circumstance, although if several nonconforming lots are held by the same owner and adjoin, the lot lines may be required to be redrawn. Nonconforming lots may also be created through condemnation. This can occur when a government agency takes part of the owner's property, such as for a road widening, leaving the owner with a lot that now in some way does not comply with the zoning ordinance.

Nonconforming structure

A structure that does not now conform to the requirements of the zoning district in which it is located but that did meet all requirements prior to adoption or amendment of the municipal

ordinance. A building or structure may be nonconforming with respect to coverage, floor area ratio, height, yard dimensions, or a variety of other characteristics.

In general, zoning ordinances do not prohibit the continuing use of nonconforming structures but often prevent them from being expanded or enlarged. In addition in the case of significant destruction of the structure by fire or other cause, the owner may, in some communities, be prohibited from reconstructing it.

Nonconforming Use

A land use that does not now conform to the requirements of the zoning district in which it is located, but that met municipal requirements prior to adoption or amendment of the zoning ordinance. An example of a nonconforming use is a retail store located in a district zoned exclusively for residential use, or a gasoline station in a commercial zone in which such stations are prohibited.

Generally if a nonconforming use is abandoned for a time period specified in the municipal zoning ordinance, that use may not be resumed at a later date, and any future use of the property must be in compliance with the ordinance. Similarly, if a property owner changes to a conforming or more closely conforming use of the property, he will not be allowed to revert to the original nonconforming use allowed on the property. In addition, nonconforming uses cannot be expanded or enlarged.

Nuisance

An activity consisting of an unlawful or unreasonable use of property by an individual that causes injury or damage to another or to the public in general. Common examples of phenomena generally considered to constitute nuisances include excessive noise, odor, smoke or vibration. Nuisances are classified as public or private. A public nuisance is one that affects an indefinite number of persons or the public at large. A private nuisance refers to unlawful conduct that particularly injures a specific person or his property. Of course, a nuisance may be both public and private.

Nursery School

A small school facility for preschool children. Often located in small buildings or private houses, in rented space in churches or in multi-family buildings, nursery schools require a small outdoor fenced area for play equipment.

Although in the United States nursery schools are frequently commercial ventures, they are usually permitted in residential districts, but they may be regulated by special permit. In planned communities and elsewhere if possible, it is desirable to locate nursery schools within a 0.25-mile (0.4 kilometer) radius of most housing and preferably in a location that can be reached without crossing a street when walking. Off-street parking is desirable for staff and parents who are dropping children off, and a safe passenger loading area is necessary on busy streets.

Nursing Homes

A residential facility designed to provide a range of personal and medical care services to chronically ill or disabled individuals. The term, which applies to a wide spectrum of institutions classified by the level of care provided, includes skilled nursing, health-related, personal care and domiciliary care facilities.

Whereas domiciliary care facilities are intended primarily to provide only room and board, with some assistance in daily routines, most nursing homes provide varying degrees of nursing care, ranging from administration of medication through intensive care services. The vast majority of such facilities are proprietary and must meet some form of minimal state code or licensing requirements.

Off-Highway Vehicle

- (1) Off-highway motorcycle as defined by 625 ILCS 5/1-153.1, when said off-highway motorcycle is used on off-highway recreational trails as contemplated by the Recreational Trails of Illinois Act.
- (2) All terrain vehicle as defined by 625 ILCS 5/1-102.02, when said all terrain vehicle is used on off-highway recreational trails as contemplated by the Recreational Trails of Illinois Act.

Off-Highway Vehicle Park

An area of land consisting of a thoroughfare(s) or track(s) across land or snow used for vehicular travel by off-highway vehicles. An off-highway vehicle park as contemplated by the Recreational Trails of Illinois Act and this Ordinance may provide for competitive or timed nature travel over said thoroughfare(s) or track(s) across land and may have, incidental to its primary operation, a closed course that also may be utilized for vehicle travel by off-highway vehicles as defined by this Ordinance for competitive, or timed nature, or for purely recreational use. This term shall include any incidental buildings, structures, tents, vehicles, enclosures or land uses such as tracks or trails intended for use as a part of such off-highway vehicle park.

Parcel

A lot or contiguous group of lots, in single ownership or under single control, and usually considered a unit for purposes of development.

Parking Space

A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile (not less than 10 feet wide and 18 feet long) together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

Permitted Use

A use by right that is specifically authorized in a particular zoning district. It is contrasted with special permit or conditional uses that are authorized only if certain requirements are met and after review and approval by the board of adjustment or other public body.

Porch

A covered entrance to a building usually with a separate roof.

Premises

A lot together with all buildings and structures thereon.

Principal Use

The main use of land or structures as distinguished from a secondary or accessory use. A house is a principal use in a residential area; a garage or pool is an accessory use. Zoning ordinances will often establish a general rule that only one principal structure or use will be permitted on each lot.

Drafters of such language generally have single-family areas in mind; but, unless application is clearly limited to such use, it can lead to unnecessary complications, such as requiring land to be subdivided in multi-family, commercial or industrial districts where there is to be more than one principal structure or use on a lot or tract or requiring buildings to be joined merely to avoid the subdivision requirement.

Public Building

Any building held, used, or controlled exclusively for public purposes by any department or branch of government - state, county, or municipal - without reference to the ownership of the building, or of the realty upon which it is situated. Some examples are: libraries, post offices, firehouses, animal control shelters, highway storage buildings, etc.

Public Park

Includes ballpark, picnic area, playground, etc.

Recreational Activity (commercial)

A “for-profit” operation where recreational activities are offered in return for a fee.

Recreational Activity (non-commercial)

Enjoyment of one’s property by the owners and their invited guests where no fee is charged for recreational activities such as hunting, fishing, camping, boating, etc.

Recreational Vehicle

Any of the following motorized vehicles:

- (1) Snowmobile.
- (2) Stock car or other racing vehicle, including, but not limited to, midget racers, racing go-carts, and racing motorcycles.
- (3) This definition does not include vehicles defined under this Ordinance as an off-highway vehicle.

Recreational Vehicle Park

An area of land designed to be occupied or used by recreational vehicles either free of charge or for revenue purposes to be used by patrons having other permanent residences, or not an owner of land upon which the recreational vehicle park is located. The term shall include any

buildings, structures, tents, vehicles, enclosures or land uses such as closed tracks or trails, intended for use as a part of such recreational vehicle park. This type of park is separate and distinct from an off-highway vehicle park.

Resort

A place providing recreation and entertainment especially to vacationers.

Rezoning

A modification of, or an amendment to, the zoning ordinance. A number of types of actions may be considered to be rezoning.

The first type of rezoning is a thorough overhaul of the entire ordinance, including both the text of the ordinance and the zoning map. Such comprehensive revisions are undertaken based upon a re-examination of community needs; difficulties that have been encountered in using and enforcing the existing ordinance; emerging techniques and trends; and other factors, such as zoning litigation that affects the principles on which the ordinance is based. Ideally, comprehensive zoning ordinance revisions should be scheduled on a regular basis; in practice, however, many communities undertake comprehensive revisions only rarely.

A second type of rezoning consists of changing an oversight or deficiency that is discovered, an attempt to accommodate a land use that has been ignored or an inconsistency that is found. Changing community needs might also dictate a modification of the requirements and conditions of a particular zone. Examples of this type of rezoning include a change in a zoning ordinance definition or an addition of a permitted land use in a particular zone.

A third type of rezoning consists of a zoning map change for one or more parcels of land. This type of change should be based upon the municipal comprehensive plan and should not be granted for an incompatible land use. Most types of rezoning are acted upon by the legislative body of the community involved. Planning staff and commissions are generally consulted and involved in fact finding, ordinance drafting and the making of recommendations prior to a final decision of the legislative body.

Right-of-way

The right of passage over the property of another. The public may acquire it through implied dedication - accepted access over a period of time to a beach or lake shoreline, for example. More commonly, it refers to the land on which a road or railroad is located. The pathways over which utilities and drainage ways run are usually referred to as easements.

Setback Regulations

The requirements of building laws that a building be set back a certain distance from the lot line either on the street level or at a prescribed height. Their aim is to allow more room for the pedestrian or reduce the obstruction to sunlight reaching the streets and lower stories of adjoining buildings.

Shelters

A place established where homeless people may go for temporary shelter or protection from

the elements. Often may include overnight sleeping accommodations and/or meals.

Sign

An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business.

Spot Zoning

The assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land parcel. The term is usually employed when the use classification is intended to benefit a particular property owner and is incompatible with the surrounding area. When this occurs, and the zoning is also in violation of the community's comprehensive plan, the zoning action may be subject to invalidation by reason of not being in furtherance of the general welfare and therefore beyond the proper scope of the police power.

Stock Car

A racing car having the basic chassis of a commercially produced assembly-line model.

Stoop

A porch, platform, entrance stairway, or small veranda at a house door.

Street

A public way which affords the principal means of access to abutting property.

Street Centerline

The street centerline is a line halfway between the street lines.

Street Line

A dividing line between a lot and a contiguous street.

Structure

Something that is constructed and is either located on the ground or is attached to an object on the ground. Buildings are structures, as are tool sheds, permanent signs, swimming pools and sometimes, for zoning purposes, mobile homes. Simple paving and surfacing is not considered to be a structure.

Structural Alteration

Any change except those required by law or ordinance, which would prolong the life of the supporting members of a building or structure. A structural alteration does not include a new roof or changing the pitch of an existing roof.

Terrace

A flat, relatively flat, or rolling area constructed on the contour of a slope that is designed to minimize runoff and erosion, or to allow cultivation on a hillside. A term often used to describe an outdoor balcony.

Tourist Home

An establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation.

Town House

A building that has one-family dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by a masonry party wall or walls extending from the basement floor to the roof along the dividing lot line, and each such building being separated from any other building by space on all sides.

Trailer or Mobile Home

A vehicle equipped for use as a dwelling and designed to be hauled along a highway.

Trailer or Mobile Home Court

An area where one or more inhabited trailers can be or are intended to be parked.

Variance

A device that grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money. A variance may be granted, for example, to reduce yard or setback requirements, or the number of parking or loading spaces.

Yard

An open space, other than a court on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

Yard, Front

A yard across the full width of the lot extending from the front setback line to the front line of the lot. On corner lots, the front yard shall face the shortest street dimension of the lot, except that if the lot is square or almost square, i.e., has dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street. (see diagram AB-2)

Yard, Side

A yard between the side setback line and the side line of the lot, and extending from the front yard line to the rear yard line. (see diagram AB-2)

Yard, Rear

A yard extending the full width of the lot between the rear setback line and the rear lot line. (see diagram AB-2)

Zoning

Zoning is a police power measure enacted by units of local government under permissive state legislation. Zoning regulations establish, in advance of applications for development, groups of permitted uses that vary from district to district. They also control the placement, height, bulk, and coverage of structures within each of the districts into which the jurisdiction is divided by the zoning map, which is a part of the zoning ordinance.

Zoning Amendment

A change or revision of the zoning ordinance or map. This must be done by legal process established by the enabling legislation of the particular state in which the municipality is located. There will be the necessity of drafting the amendment, submitting it to the governing body, conducting the public hearings, and official adoption before it can be made a part of the zoning ordinance.

Zoning Appeal

An appeal filed by an individual who has applied to the zoning officer for a zoning permit and who has been turned down for noncompliance with the requirements of the ordinance. The zoning ordinance itself will set forth the procedure that must be followed in filing such an appeal. A time element is stated, and the applicant must take his action within this period. An appeal must also be filed on appropriate forms that have been adopted as part of the zoning policy within the community.

Zoning Board of Appeals

A quasi-judicial municipal board, also known as a zoning board of adjustment. It hears appeals from property owners in matters related to the disapproval of building permits by the local zoning officer (usually the building inspector), grants variances as relief from hardship caused by strict adherence to zoning ordinance requirements and grants special permits where it is so empowered. In its administration of these responsibilities, the board must endeavor to preserve the intent of the zoning ordinance.

The zoning board generally has three broad areas of jurisdiction. First, it serves as the interpreter of the zoning ordinance and zoning map when appeals are made from a building inspector's decision. Another area of jurisdiction relates to requests for variances which are automatically directed to the zoning board for its decision. It may grant area variances based on the inability to develop a property in strict accordance with zoning requirements, but zoning boards are often prohibited from granting use variances, which may be regarded as a legislative prerogative. Requests for special permits are also usually directed to the zoning board, although in some communities special permit applications are handled by the planning board. When matters are brought before the board of appeals, a public hearing is held after legally required public notice is given. The zoning board subsequently decides upon the merits of the case and issues its findings as a formal opinion of the board which includes the reasons for the decision that has been made.

The board must keep adequate records of its hearings in sufficient detail to be suitable for use in cases that are appealed to a court. Such appeals may be undertaken by the applicant if denied approval by a neighboring municipality angered by a special permit or variance

approval for property near its border or by a citizen group opposed to the granting of an approval.

Zoning District

A portion of a community that is officially delineated on the zoning map and is subject to a particular set of land use requirements set forth in the zoning ordinance. These requirements, which are uniform throughout the district, control permitted uses as well as intensity of development and arrangement of buildings on the land.

Zoning Map

A map or set of maps that indicates the boundaries of a zoning district.

Zoning Officer

The individual appointed to enforce and administer the zoning ordinance. It is his or her duty to receive applications for zoning permits, as well as certificates of occupancy permits, and to check against the ordinance to see whether such permits can be issued. The zoning officer cannot make discretionary determinations, but must go by the terms of the ordinance itself. If an applicant does not comply with the conditions set forth, the zoning officer has no choice but to deny the request, in which case there may then be an appeal made to the zoning board for relief.

Zoning Ordinance

The official document that sets forth the zoning regulations and zoning districts that are applicable in a community. A zoning ordinance consists of the zoning text (which describes all regulations, standards and procedures and defines the terms that are used) and a zoning map or maps (which delineate the location of all zoning districts). A schedule of district regulations, in which various requirements are listed and summarized, may also be included. The zoning ordinance is one of the major types of land use controls available for the regulation of development.

Zoning Permit

A permit issued by the zoning officer showing that the plans submitted are in compliance with the zoning ordinance and that the use or structure proposed is allowed by the ordinance or has been allowed by the granting of a variance by the zoning board. No use or structure can take place unless it has obtained a zoning permit where a zoning ordinance is in effect. There is usually a fee charged by the county for this permit.

Zoning Policy

The policy that the governing body and members of the official family of a community should adopt as the basis for its zoning ordinance and map. It should set forth the kind of community that is desirable, the procedure that will be followed to obtain that type of community, and the aspects that will be considered to be important in reaching decisions on zoning administration.