

# **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

## **NOTICE OF REGULAR MEETING**

Date: **February 2, 2012**  
Time: **6:30 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

**Note: NO ENTRANCE TO BUILDING  
FROM WASHINGTON STREET PARKING  
LOT AFTER 4:30 PM.  
Use Northeast parking lot via Lieman Ave..  
and enter building through Northeast  
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at  
(217) 384-3708*

**EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM**

### **AGENDA**

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings
6. New Public Hearings

**Case 701-AT-11 Petitioner: Zoning Administrator**

**Note: The full ZBA packet is now available  
on-line at: [www.co.champaign.il.us](http://www.co.champaign.il.us).**

**Request:** **Part A.** Revise paragraph 6.1.4 D. 1 to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.

**Part B.** Revise paragraph 6.1.4 F. as follows:

1. Revise subparagraph 6.1.4 F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
2. Delete subparagraph 6.1.4 F. 1.u.
3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and Repair Agreement with the appropriate highway authority.

**Part C.** Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.

**Part D.** Add new subparagraph 6.1.4 E. 7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.

**Part E.** Revise subparagraph 6.1.4 S. 1. (c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval.

**Part F.** Strike the requirement for “reclamation agreement” for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of “site reclamation plan” and add certain other related requirements as follows:

1. Section 3 revise the definition of “NON-ADAPTABLE STRUCTURE” to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
2. Make the following revisions to paragraph 6.1.1A.:
  - a. Strike references to “reclamation agreement” and replace with “site reclamation plan”

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS  
NOTICE OF REGULAR MEETING  
FEBRUARY 2, 2012**

Case 701-AT-11 cont:

- b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
  - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES
  - (2) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
  - (3) Limit consideration of salvage value to be as limited by Paragraph 6.1.4P.
- c. Revise subparagraph 6.1.1 A.6 to strike "120 days" and replace with "180 days" and insert "or applicant" after "landowner".
- d. Revise paragraph 6.1.1A. to add other related requirements
- 3. Revise paragraph 6.1.4P as follows:
  - a. Revise paragraph 6.1.4P to strike references to "reclamation agreement" and replace with "site reclamation plan."
  - b. Delete subparagraphs 6.1.4P.3.(d), (e), and (f) and add new subparagraphs to require the following:
    - (1) At the time of decommissioning a Roadway Use and Repair Agreement.
    - (2) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.
  - c. Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan.
  - d. Insert new subparagraph 6.1.4 P.4.(b) to require the following:
    - (1) Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards.
    - (2) Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any deconstruction costs.
    - (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.
    - (4) Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.
    - (5) Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.
  - e. Renumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values.
  - f. Revise paragraph 6.1.4P to add other related requirements.

\*Note: The description of the Request has been simplified from the legal advertisement. See the legal advertisement included with the memorandum.

- 7. Staff Report
- 8. Other Business
  - A. October, November and December 2011 Monthly Report
  - B. FOIA training
  - C. Review of ZBA Docket
- 9. Audience Participation with respect to matters other than cases pending before the Board
- 10. Adjournment

\* Administrative Hearing. Cross Examination allowed.

# CASE NO. 701-AT-11

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802  
(217) 384-3708

## PRELIMINARY MEMORANDUM

JANUARY 27, 2012

Petitioner: Zoning Administrator

Prepared by: John Hall, Zoning Administrator  
Andy Kass, Associate Planner

Request: Amend the Champaign County Zoning Ordinance as follows:

- Part A.** Revise paragraph 6.1.4 D.1. to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.
- Part B.** Revise paragraph 6.1.4 F. as follows:
1. Revise subparagraph 6.1.4F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
  2. Delete subparagraph 6.1.4 F.1. u.
  3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and repair Agreement with the appropriate highway authority.
- Part C.** Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.
- Part D.** Add new subparagraph 6.1.4 E.7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.
- Part E.** Revise subparagraph 6.1.4 S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval.
- Part F.** Strike the requirement for "reclamation agreement" for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of "site reclamation plan" and add certain other related requirements as follows:
1. In Section 3 revise the definition of "NON-ADAPTABLE STRUCTURE" to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
  2. Make the following revisions to paragraph 6.1.1A.:
    - a. Strike references to "reclamation agreement" and replace with "site reclamation plan"
    - b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
      - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES.
      - (2) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
      - (3) Limit consideration of salvage value to be as limited by paragraph 6.1.4P.
  - c. Revise subparagraph 6.1.1A.6. to strike "120 days" and replace with "180 days" and insert "or applicant" after "landowner".
  - d. Revise paragraph 6.1.1A. to add other related requirements.
3. Revise paragraph 6.1.4P. as follows:
    - a. Revise paragraph 6.1.4P. to strike references to "reclamation agreement" and replace with "site reclamation plan".
    - b. Delete subparagraphs 6.1.4P.3. (d), (e), and (f) and add new subparagraphs to require the following:

- (1) At the time of decommissioning a Roadway Use and Repair Agreement.
- (2) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.
- c. Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan.
- d. Insert new subparagraph 6.1.4 P.4.(b) to require the following:
  - (1) Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards.
  - (2) Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any deconstruction costs.
  - (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.
  - (4) Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.
  - (5) Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.
- e. Renumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values.
- f. Revise paragraph 6.1.4P. to add other related requirements.

\* NOTE: The description of the Request has been simplified from the legal advertisement. See the legal advertisement included with the memorandum.

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## BACKGROUND

This proposed text amendment to the wind farm requirements is a response to needed improvements identified during the public hearing process of the California Ridge Wind Farm. The Champaign County Board Committee of the Whole- ELUC (COW-ELUC) authorized this text amendment at their January 10, 2012, meeting. The memorandum reviewed by the COW-ELUC is attached. Discussion at the COW-ELUC included the following suggestions:

1. Add to the decommissioning requirements standards for backfilling of the wind turbine tower footing excavations.
2. Define or explain salvage value to ensure that all relevant demolition, recycling process, and transportation costs are considered in determining salvage value.

A Draft of these additional standards will be available at the meeting.

**ATTACHMENTS**

- A Case Description of the Legal Advertisement for Case 701-AT-11
- B Memo to the Champaign County Board Committee of the Whole dated January 4, 2012, with attachments:
  - A Revised Draft example amendment
  - B Proposed Paragraph 6.1.4P.

**Attachment A. Case Description of the Legal Advertisement**  
Case 701-AT-11  
JANUARY 27, 2012

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**CASE: 701-AT-11**

Amend the Champaign County Zoning Ordinance as follows:

Part A. Revise paragraph 6.1.4 D.1. to require that documentation of design compliance with applicable industry standards be submitted prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND FARM TOWER.

Part B. Revise paragraph 6.1.4 F. as follows:

1. Revise subparagraph 6.1.4F.1. to require that agreements between the Applicant and the County Engineer shall not be forwarded to the County Board before the special use permit is forwarded and that all other agreements shall be executed prior to the close of the public hearing before the BOARD.
2. Delete subparagraph 6.1.4 F.1. u.
3. Add new subparagraph 6.1.4 F. 3. to require at the time of decommissioning a Roadway Use and repair Agreement with the appropriate highway authority.

Part C. Revise paragraph 6.1.4 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the response from IDNR.

Part D. Add new subparagraph 6.1.4 E.7. to require that a permanent soil erosion and sedimentation plan be submitted for all WIND FARM TOWER sites and access roads.

Part E. Revise subparagraph 6.1.4 S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS from what is indicated on the site plan provided that the final locations comply with any required waivers or special conditions of approval.

Part F. Strike the requirement for "reclamation agreement" for NON-ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of "site reclamation plan" and add certain other related requirements as follows:

1. In Section 3 revise the definition of "NON-ADAPTABLE STRUCTURE" to include a WIND TURBINE TOWER and a WIND FARM TOWER as currently defined in Section 3.
2. Make the following revisions to paragraph 6.1.1A.:
  - a. Revise existing paragraph 6.1.1A. to strike references to "reclamation agreement" and replace with "site reclamation plan"; and replace references to 6.1.1C. with references to 6.1.1A.
  - b. Revise subparagraphs 6.1.1 A. 1. through 5 as follows:
    - (1) Require a site reclamation plan for NON-ADAPTABLE STRUCTURES.
    - (2) Replace "developer" with "applicant".
    - (3) Require the site reclamation plan to be binding upon all successors of title to the land and require reclamation work be performed and that a letter of credit be provided for financial assurance.
    - (4) Limit consideration of salvage value to be as limited by paragraph 6.1.4P.

**Attachment A. Case Description of the Legal Advertisement**

Case 701-AT-11

JANUARY 27, 2012

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- (5) Require the site reclamation plan to provide for any environmental remediation require by State or Federal law.
- c. Add new subparagraph 6.1.1A.7.e. that specifies that abandonment includes when a court of law or arbiter or mediator or any State or Federal agency charged with enforcing the law has made a finding that a non-adaptable structure or supporting structures or any related erosion controls constitutes a public nuisance or violates the law or when such State or Federal agency imposes an administrative sanction related to use of the structure or denying the a permit necessary for lawful operation.
- d. Revise subparagraph 6.1.1A.6. to strike "120 days" and replace with "180 days" and insert "or applicant" after "landowner".
- e. Revise subparagraph 6.1.1 A. 11.b. to require payment of all administrative and ancillary costs associated with drawing upon the financial assurance and performing reclamation work.
- f. Revise paragraph 6.1.1 A. 12. to require a new site reclamation plan be submitted upon transfer of any property subject to a letter of credit.
- g. Add new subparagraphs 6.1.1 A. 13. & 14. to require:
  - (1) The applicant to provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator.
  - (2) In the event that a site reclamation plan is deemed invalid by a court of competent jurisdiction the SPECIAL USE permit shall be deemed void.
- 3. Revise paragraph 6.1.4P. as follows:
  - a. Revise paragraph 6.1.4P. to strike references to "reclamation agreement" and replace with "site reclamation plan".
  - b. Delete subparagraphs 6.1.4P.3. (d), (e), and (f) and add new subparagraphs to require the following:
    - (1) At the time of decommissioning a Roadway Use and Repair Agreement.
    - (2) Evidence of any new, additional, or substitute financing or security agreement.
    - (3) The work in the site reclamation plan shall be done before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND FARM, after it has begun, other than in the ordinary course of business.
    - (4) Payment of any associated costs that Champaign County may incur in the event that decommissioning is actually required.
    - (5) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet specified minimum standards of soil quality; depth; compaction; and drainage.
    - (6) The WIND FARM SPECIAL USE Permit shall be void if the site reclamation plan is deemed invalid by a court of competent jurisdiction.
    - (7) The obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the obligation to provide financial assurance.

**Attachment A. Case Description of the Legal Advertisement**

Case 701-AT-11

JANUARY 27, 2012

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- (8) The liability to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.
- (9) Permission from the Zoning Administrator before removing equipment or property credited to salvage value without concurrent replacement of something of equal or greater value.
- c. Revise subparagraph 6.1.4 P.4. (a) to require an irrevocable letter of credit and an escrow account as financial assurance to be provided for the site reclamation plan and make the last sentence new subparagraph 6.1.4P.4.(c).
- d. Insert new subparagraph 6.1.4 P.4.(b) to require the following:
  - (1) Authorize salvage value to be deducted from decommissioning costs, subject to meeting specified standards of either maintaining the WIND FARM TOWERS free and clear of liens and encumbrances or deducting the amount of any liens or encumbrances from the salvage value credit or requiring any and all financing or financial security agreements subject to the covenant required by paragraph 6.1.1A.2; and require proof of compliance as required by the Zoning Administrator
  - (2) Add requirements for determining estimated net salvage value based on the average salvage price of the past five years and including any costs of dismantling or demolishing, transportation, or other similar costs that will serve to reduce the net salvage value.
  - (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from estimated decommissioning costs.
  - (4) Require the site reclamation plan to provide for legal transfer of the STRUCTURE to the demolisher should the reclamation work be performed.
  - (5) Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more than the estimated decommissioning cost of removal of the above ground portions of that WIND FARM TOWER.
- e. Rerumber existing paragraph 6.1.4 P.4.(b) to become new paragraph 6.1.4 P.4.(e) and revise to require equal annual installments of cash deposits in an escrow account.
- f. Rerumber existing subparagraph 6.1.4 P.4. (b)(5) to become new subparagraph 6.1.4 P.4. (d) and revise to require regular adjustment to the amount of financial assurance to ensure that it reflects current information including any changes due to inflation or change in net salvage value by requiring an Illinois Professional Engineer to provide an updated report of estimates of decommissioning costs and salvage values once every three years for the first 12 years and at least every year thereafter and provide copies of the report to the Zoning Administrator; and require an anticipated life span of 25 years for a WIND FARM for purposes of financial assurance.

**Attachment A. Case Description of the Legal Advertisement**

Case 701-AT-11

JANUARY 27, 2012

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- g. Add new subparagraph 6.1.4 P.4.(f) to protect against a downward adjustment of salvage value and an upward adjustment of decommissioning costs and require adjustment of the financial assurance accordingly.
- h. Revise subparagraph 6.1.4 P.5.(a) to strike references to “wind turbine” and replace with “WIND FARM TOWER” and insert the phrase “after it starts producing electricity.”
- i. Add the following to subparagraph 6.1.4P.5.:
  - (1) A delay in construction after construction begins, of more than 6 months.
  - (2) The appearance of a state of disrepair or imminent collapse or an imminent threat to public health and safety.
  - (3) Any WIND FARM TURBINE derelict for 6 months.
  - (4) Violation of the Special Use Permit for more than 90 days.
  - (5) Failure to maintain financial assurance as required or compromising the County’s interest.
  - (6) Any material misstatement fact or misleading omission of fact by the Applicant.
  - (7) Failure to receive design certification as required.
- j. Add new subparagraph 6.1.4P.6. to authorize the Zoning Administrator to deem a WIND FARM abandoned or some, but not all WIND FARM TURBINES and to draw upon the financial assurance to perform reclamation work for those deemed abandoned and require recalculation of decommissioning costs upon completion.
- k. Rerumber existing subparagraph 6.1.4P.6. and revise to include the phrase “Site Reclamation Plan” and strike the phrase “Site Reclamation Agreement including.”

To: **Champaign County Board Committee of the Whole**  
From: **John Hall, Director & Zoning Administrator**  
Date: **January 4, 2012**  
RE: **Zoning Ordinance requirements for wind farms**  
Request: **Request approval to proceed with a public hearing for an amendment to the Zoning Ordinance requirements for wind farms .**

**This item was deferred from the December meeting.**

## **BACKGROUND**

The County Board approved the California Ridge Wind Farm (Case 696-S-11) in Resolution No. 7966 on November 17, 2011. Case 696-S-11 was the first use of the wind farm zoning requirements and several needed improvements were identified during the public hearing for that case.

Any change to the Zoning Ordinance requirements for wind farms must be adopted before the next wind farm application in order for the changes to apply to that application. It has been rumored that the next application for a wind farm special use permit may be received in February 2012.

If the Committee agrees with the proposed amendment and authorizes the zoning case to proceed, the public hearing will begin in February 2012 and the amendment could be returned to the Committee as early as March with adoption at the full Board meeting in April.

## **OVERVIEW OF PROPOSED AMENDMENT**

Attachment A indicates the proposed changes which can be briefly summarized as follows:

- Proposed changes 1 – 5 are in response to waivers required for Case 696-S-11 and are intended to minimize the need for waivers for future wind farms.
- Proposed change 6 adds the Permanent Erosion and Sedimentation Control Plan as a requirement of the Ordinance. This was a special condition of approval for Case 696-S-11.
- Proposed changes 7 – 17 are proposed to improve the decommissioning requirements of the Ordinance based on the lessons learned in Case 696-S-11 as follows:

- Changes 7 & 8 change the current requirement for a “reclamation agreement” in paragraphs 6.1.1A. and 6.1.4P. to simply a requirement for a “site reclamation plan”.
  - Changes 9- 17 revise the decommissioning and site reclamation plan requirement of paragraph 6.1.4 P. In particular, change 10 limits the amount of salvage value that may be used to offset decommissioning costs to no more than 70%.
  - Attachment B is the proposed paragraph 6.1.4P. with all of the proposed changes without underlining or strike out.
- Proposed changes 18- 25 revise the general site reclamation requirements of paragraph 6.1.1A. to make those requirements consistent with the changes in paragraph 6.1.4 P.
  - Proposed change 26 adds the requirement for road use agreement at the time of decommissioning to paragraph 6.1.4 F.

#### **CHANGES FROM THE DECEMBER 6, 2011, MEMORANDUM**

The Draft amendment attached to the December 1, 2011, memorandum was not complete. The State’s Attorney and I have continued to work on this amendment since December and the attached amendment is finally complete.

#### **ATTACHMENT**

- A      Revised Draft example amendment**
- B      Proposed Paragraph 6.1.4 P.**

**NOTE THAT ADDITIONS SINCE 12/6/11 ARE IN DOUBLE UNDERLINING AND  
DELETIONS SINCE 12/6/11 ARE IN DOUBLE STRIKE OUT**

**1. Revise paragraph 6.1.4 D.1. to read as follows:**

- (a) WIND FARM TOWERS, turbines, and all related construction shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energy (“GL”), or equivalent third party. Documentation of compliance must be submitted prior to receiving a Zoning Compliance Certificate for either the wind farm WIND FARM or for any single wind turbine WIND FARM TOWER.

**2. Revise paragraph 6.1.4 F.1. to read as follows:**

1. Prior to the close of the public hearing before the BOARD, The Applicant shall enter into a Roadway Upgrade and Maintenance agreement approved by the County Engineer and State's Attorney; or Township Highway Commissioner; or municipality where relevant. Agreements with the County Engineer shall not be forwarded to the County Board before the wind farm special use permit is forwarded. All other agreements shall be executed prior to the close of the public hearing before the BOARD and-The signed and executed Roadway Upgrade and Maintenance agreements must provide for the following minimum conditions:

**3. Revise Delete paragraph 6.1.4 F.1. u. to read as follows:**

- u. The Applicant shall agree that the County shall design all STREET upgrades in accordance with the IDOT Bureau of Local Roads and Streets Manual, 2005 edition, unless the relevant highway authority finds that alternative requirements are necessary or sufficient to meet public safety needs.

**4. Revise paragraph 6.1.4 J. to read as follows:**

**J. Standard Conditions for Endangered Species Consultation**

The Applicant shall apply for consultation with the Endangered Species Program of the Illinois Department of Natural Resources. The Application shall include a copy of the Agency Action Report or, if applicable, a copy of the Detailed Action Report from submitted to the Endangered Species Program of the Illinois Department of Natural Resources and a copy of the or a letter response from the Illinois Department of Natural Resources stating that the letter substitutes for an Agency Action Report.

**Attachment A. Revised Draft Example Amendment**  
JANUARY 4, 2012

**5. Revise paragraph 6.1.4 S.1.(c)(3) to read as follows:**

- (3) The separation of all WIND FARM structures from adjacent NON-PARTICIPATING DWELLINGS OR PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit unless the Board authorizes a lesser separation in a special condition of approval that is also consistent with any required waivers of paragraph 6.1.4 C. ~~Greater separation and somewhat different locations for WIND FARM structures~~ may be provided in the ~~approved~~ site plan for the Zoning Use Permit provided that the ~~greater separation does not increase the noise impacts final locations of WIND FARM TOWERS~~ comply with any ~~that were approved in the authorized waivers or special conditions of approval of the WIND FARM County Board SPECIAL USE Permit.~~ WIND FARM structures include WIND FARM TOWERS, substations, third party transmission lines, maintenance and management facilities, or other significant structures.

**6. (NO CHANGE FROM 12/6/11) Add new paragraph 6.1.4 E.7. as follows:**

**7. Permanent Erosion and Sedimentation Control Plan**

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

**7. (NO CHANGE FROM 12/6/11) Revise paragraph 6.1.1A. to strike references to “reclamation agreement” and replace with “site reclamation plan”.**

**8. (NO CHANGE FROM 12/6/11) Revise paragraph 6.1.4P. to strike references to “reclamation agreement” and replace with “site reclamation plan”.**

**95. Delete paragraphs 6.1.4P.3. (d), (e), and (f) and add new paragraphs 6.1.4P.3.(d) through (h) as follows:**

- (d) ~~A standard choice of law provision stating that the agreement is controlled by Illinois law.~~
- (e) ~~A standard indemnification clause that indemnifies the county with respect to any and all liability arising out of the agreement.~~
- (f) ~~A standard severability provision.~~
- (g) ~~A guaranteed minimum amount of \$65,000 per turbine (net of any authorized salvage value) that shall be updated annually to reflect the known rate of inflation.~~
- (d) A stipulation that at such time as decommissioning takes place the applicant or its successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
- (e) A stipulation that the Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.
- (f) A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND FARM, after it has begun, other than in the ordinary course of business. This obligation shall be independent of the obligation to pay financial assurance, and shall not be limited by the amount of financial assurance. The obligation to perform the reclamation work shall constitute a covenant running with the land
- (g) The site reclamation plan shall provide for payment of any associated costs that Champaign County may incur in the event that decommissioning is actually required. Associated costs include all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work and shall include but not be limited to attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposals and bidding documents required to comply with state law or Champaign County purchasing policies.
- (h) The Applicant shall adjust the amount of the reclamation agreement to ensure that the reclamation agreement reflects current and accurate information as follows:
- (i) The Applicant shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of decommissioning costs and salvage value to reflect any changes due to inflation and or change in salvage price at least once every three years for the first 12 years of the Reclamation Agreement and at least once every two years thereafter.

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- (2) At all times the combined value of the irrevocable letter of credit and escrow account shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved and an amount for any future years left in the anticipated lifetime of the WIND FARM at an assumed minimum rate of inflation of 3% per year.
- (h) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches.
- (i) A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WIND FARM SPECIAL USE Permit shall be deemed void.
- (j) A stipulation that the Applicant's obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the Applicant's obligation to provide financial assurance.
- (k) A stipulation that the liability of the Applicant's failure to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.
- (l) If the Applicant desires to remove equipment or property credited to the estimated salvage value without the concurrent replacement of the property with property of equal or greater salvage value or if the Applicant installs equipment or property increasing the cost of decommissioning after the WIND FARM begins to produce electricity, at any point, the Applicant shall first obtain the consent of the Zoning Administrator. If the Applicant's lien holders remove equipment or property credited to the salvage value the Applicant shall promptly notify the Zoning Administrator. In either of these events the total financial assurance shall be adjusted to reflect any change in total salvage value and total decommissioning costs resulting from any such removal or installation.

**106. Revise paragraph 6.1.4 P.4. (a) and insert new paragraph 6.1.4 P.4.(b) and renumber existing paragraphs as required as follows:**

4. The amount of the irrevocable letter of credit required in paragraph To comply with paragraph 6.1.1 A.5., the Applicant shall provide financial assurance in the form of an irrevocable letter of credit and an escrow account shall be as follows:
- (a) At the time of Special Use Permit approval the amount of financial assurance to be provided for the site reclamation plan the irrevocable letter of credit shall be 210% of the net decommissioning cost as determined in the of an independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1 A. 4. a. and 6.1.1A.4.b. and 6.1.1A.4.c. or less if specifically authorized by the Board. The net decommissioning cost shall be the total costs of performing the

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~~decommissioning work minus a maximum credit for the salvage value of the project. The determination of net decommissioning cost shall limit the use of estimated salvage value as follows:~~

- (1) ~~Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated salvage value.~~
  - (2) ~~No more than 60% 70% of the total estimated salvage value shall be used in determining the net decommissioning cost as estimated by an independent engineer even though the total actual salvage value shall be available in the event that decommissioning is actually required.~~
  - (3) ~~The depth of removal of foundation concrete below ground shall be a minimum of 54 inches.~~
  - (4) ~~The credit for salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above ground portion of that WIND FARM TOWER on the subject site.~~
- (b) ~~If Salvage value is being credited to site reclamation costs may be deducted from decommissioning costs as follows:~~
- (1) ~~One of the following standards shall be met:~~
    - (1) ~~The Applicant shall:~~
      - i. ~~The Applicant shall maintain the WIND FARM TOWERS free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or~~
      - ii. ~~The developer Applicant shall deduct from the salvage value credit the amount of any liens or encumbrances on the each WIND FARM TOWERS, at any point at which the credit is to be calculated; or~~
      - iii. ~~Any and all financing and/or financial security agreements entered into by the Applicant shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1.A.2 that the reclamation work be done. Applicant shall provide evidence of this to the Zoning Administrator prior to Zoning Use Permit approval.~~
    - (2) ~~The Applicant shall provide proof of compliance with paragraph 6.1.4 P.4.(b)(1) prior to issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.~~

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- (23) The developer Applicant shall provide in the site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
- (4) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated salvage value.
- (5) The deduction from the decommissioning costs for salvage value shall be capped at 70% of the total estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.
- (6) The credit for salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above-ground portion of that WIND FARM TOWER on the subject site.
- (c) The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.

**11. Renumber existing paragraph 6.1.4 P.4.(b) to become new paragraph 6.1.4 P.4.(e) and revise the first part of the existing paragraph as follows:**

- (be) The applicant or WIND FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account in equal annual installments over the first 13 years of the WIND FARM operation as follows:

**1112. Renumber existing paragraph 6.1.4 P.4. (b)(5) to become new paragraph 6.1.4 P.4. (d) and revise as follows:**

- (5d) The Applicant shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:
- #(1) At least once every three years for the first 12 years of the financial assurance and at least once every two years thereafter the Applicant shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of decommissioning costs and salvage value and net decommissioning cost by including any changes due to inflation and / or change in salvage price. The Applicant shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator.
- #(2) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the life span of the WIND FARM and the amount

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shall be equal to or exceed the following:

- i. the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; plus
- ii. and an amount for any future years left in the anticipated 25 year life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.

**13. Add new paragraph 6.1.4 P.4. (b)(6) (f) as follows:**

- (6f) Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.4 P. 4. (d), the amount to be placed in the escrow account pursuant to this paragraph 6.1.4P.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.

**14. Revise paragraph 6.1.4 P.5.(a) to read as follows:**

- (a) In the event that any wind turbine WIND FARM TOWER or component thereof ceases to be functional for more than six consecutive months after it starts producing electricity and the Owner is not diligently repairing such wind turbine WIND FARM TOWER or component.

**1215. Add the following to paragraph 6.1.4P.5.:**

- (c) There is a delay in the construction of any WIND FARM TOWER of more than 6 months after construction on that WIND FARM TOWER begins.
- (d) Any WIND FARM TURBINE appears in a state of disrepair or imminent collapse and/or creates an imminent threat to the health or safety of the public or any person.
- (e) Any WIND FARM TURBINE is otherwise derelict for a period of 6 months.
- (f) The WIND FARM is in violation of the terms of the WIND FARM SPECIAL USE permit for a period exceeding ninety (90) days.
- (g) The Applicant has failed to maintain financial assurance in the form and amount required by the special use permit or compromised the COUNTY's interest in the site reclamation plan.
- (h) The COUNTY discovers any material misstatement of fact or misleading omission of fact made by the Applicant in the course of the special use permit zoning case.

**4316. (NO CHANGE FROM 12/6/11) Add new paragraph 6.1.4P.6. as follows:**

6. The Zoning Administrator may, but is not required to, deem the WIND FARM abandoned, or the standards set forth in Section 6.1.4.P.5 met, with respect to some, but not all, of the WIND FARM TURBINES in the WIND FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to those WIND FARM TURBINES only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining WIND FARM TURBINES in the WIND FARM.

**4417. (NO CHANGE FROM 12/6/11) Renumber existing paragraph 6.1.4P.6. and revise as follows:**

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

**4518. Revise existing paragraph 6.1.1A. to make consistent with the changes proposed in 9 through 14.**

**4619. Revise existing paragraph 6.1.1A. to replace references to 6.1.1C. with references to 6.1.1A.**

**20. Revise paragraphs 6.1.1 A. 1. through 5 to read as follows:**

**6.1.1 Standard Conditions that May Apply to Specific SPECIAL USES**

**A. Site Reclamation Plan for NON-ADAPTABLE STRUCTURES**

1. In the course of BOARD review of a SPECIAL USE request, the BOARD may find that a proposed STRUCTURE is a NON-ADAPTABLE STRUCTURE. Any WIND FARM shall be a NON-ADAPTABLE STRUCTURE. In such a case the developer The Applicant for the SPECIAL USE request for a NON-ADAPTABLE STRUCTURE shall enter into a reclamation agreement submit a site reclamation plan with to the COUNTY BOARD for the subject site. The site reclamation plan shall be binding upon all successors of title to the land.
2. The site reclamation plan shall be binding upon all successors of title to the land. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner shall also record a covenant incorporating the provisions of the reclamation agreement site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.
3. Separate cost estimates for Section 6.1.1A4a, and 6.1.1A4b, and 6.1.1A4c

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shall be provided by an Illinois Licensed Professional Engineer.

a. Cost estimates provided shall be subject to approval of the BOARD.

b. Except as provided in Section 6.1.4.P, the salvage value of the components of the NON-ADAPTABLE STRUCTURE shall not be credited to the cost estimates.

4. The reclamation agreement site reclamation plan shall provide for:

a. removal of above-ground portion of any STRUCTURE on the subject site; site grading; and, interim soil erosion control;

b. below-ground restoration, including final grading and surface treatment;

c. any environmental remediation required by State or Federal law;

d. provision and maintenance of a letter of credit, as set forth in Section 6.1.1C.5 6.1.1A.5.

5. No Zoning Use Permit for such SPECIAL USE will be issued until the developer provides the COUNTY with an irrevocable letter of credit to be drawn upon a federally insured financial institution within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an independent engineer's cost estimate to complete the work described in Section 6.1.1A4.a., Section 6.1.1.A.4.b, and Section 6.1.1.A.4.c, except a different amount may be required as a standard condition in Section 6.1.4 P. This letter of credit, or a successor letter of credit pursuant to Section 6.1.1A6 or 6.1.1A12 shall remain in effect and shall be made available to the COUNTY for an indefinite term or for a different term that may be required as a standard condition in paragraph 6.1.4 P.

**21. Add new subparagraph 6.1.1 A. 5. e. to read as follows:**

e. A court of law, an arbitrator, mediator, or any state or Federal agency charged with enforcing State or Federal law has made a finding that either said NON-ADAPTABLE STRUCTURE or the structures supporting said NON-ADAPTABLE STRUCTURE and/or any related site grading and soil erosion controls or lack of same, constitutes a public nuisance or otherwise violates State or Federal law, or any State or Federal agency charged with enforcing State or Federal law has made a final determination either imposing an administrative sanction on any person associated with the NON-

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ADAPTABLE STRUCTURE relating to its use or denying the  
NON-ADAPTABLE STRUCTURE a permit necessary for its  
lawful operation.

**22. Revise paragraph 6.1.1 A. 11.b. to read as follows:**

- b. pay ancillary costs related to this process all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work, which shall include, but not be limited to, attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposal and bidding documents required to comply with state law or Champaign County purchasing policies; and

**23. Revise paragraph 6.1.1 A. 12. to read as follows:**

12. Upon transfer of any property subject to a letter of credit pursuant to this Section, the new owner of record shall submit a new irrevocable letter of credit of same or greater value to the Zoning Administrator, prior to legal transfer of title, and shall sign submit a new reclamation agreement site reclamation plan, pursuant to Section 6.1.1C.A.4.a., and, for WIND FARMS, Section 6.1.4.P. Once the new owner of record has done so, the letter of credit posted by the previous owner shall be released, and the previous owner shall be released from any further obligations under the reclamation agreement site reclamation plan.

**24. Add new subparagraphs 6.1.1 A. 13. &14. to read as follows:**

13. The Applicant shall provide evidence of any new, additional, or substitute financial assurance to the Zoning Administrator throughout the operating lifetime of the NON-ADAPTABLE STRUCTURE.
14. Should the site reclamation plan, or any part of it, be deemed invalid by a court of competent jurisdiction, the associated SPECIAL USE permit shall be deemed void.

**25. In Section 3 revise the definition of “non-adaptable structure” to read as follows:**

NON-ADAPTABLE STRUCTURE: Any STRUCTURE or physical alteration to the land which requires a SPECIAL USE Permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRICT (by right or by SPECIAL USE). This term shall include, but not be limited to, a WIND TURBINE TOWER and a WIND FARM TOWER.

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**26. Add new subparagraph 6.1.4 F. 3. as follows:**

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

**~~16. OPTIONAL Revise paragraph 6.1.4P, so that it is separate from paragraph 6.1.1A. and so that it contains all necessary requirements for WIND FARM decommissioning.~~**

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P. Standard Condition for Decommissioning and Site Reclamation Plan

1. The Applicant shall submit a signed site reclamation plan conforming to the requirements of paragraph 6.1.1 A.
2. In addition to the purposes listed in subparagraph 6.1.1 A. 4. the site reclamation plan shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the WIND FARM and all costs related to removal of access driveways.
3. The Site reclamation plan required in paragraph 6.1.1 A. shall also include the following:
  - (a) A stipulation that the applicant shall notify the GOVERNING BODY by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the applicant as debtor, within ten days of commencement of the proceeding.
  - (b) A stipulation that the Applicant shall agree that the sale, assignment in fact or at law, or such other transfer of Applicant's financial interest in the WIND FARM shall in no way affect or change Applicant's obligation to continue to comply with the terms of this Agreement. Any successor or assignee shall assume the terms, covenants and obligations of this Agreement and agrees to assume all reclamation liability and responsibility for the WIND FARM.
  - (c) Authorization for the GOVERNING BODY and its authorized representatives for right of entry onto the WIND FARM premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.
  - (d) A stipulation that at such time as decommissioning takes place the applicant or it's successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.
  - (e) A stipulation that the Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.
  - (f) A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WIND FARM or prior to ceasing production of electricity from the WIND FARM, after it has begun, other than in the ordinary course of business. This obligation shall be independent of the obligation to

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pay financial assurance, and shall not be limited by the amount of financial assurance. The obligation to perform the reclamation work shall constitute a covenant running with the land

- (g) The site reclamation plan shall provide for payment of any associated costs that Champaign County may incur in the event that decommissioning is actually required. Associated costs include all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work and shall include but not be limited to attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposals and bidding documents required to comply with state law or Champaign County purchasing policies.
- (h) The depth of removal of foundation concrete below ground shall be a minimum of 54 inches.
- (i) A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WIND FARM SPECIAL USE Permit shall be deemed void.
- (j) A stipulation that the Applicant's obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the Applicant's obligation to provide financial assurance.
- (k) A stipulation that the liability of the Applicant's failure to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.
- (l) If the Applicant desires to remove equipment or property credited to the estimated salvage value without the concurrent replacement of the property with property of equal or greater salvage value or if the Applicant installs equipment or property increasing the cost of decommissioning after the WIND FARM begins to produce electricity, at any point, the Applicant shall first obtain the consent of the Zoning Administrator. If the Applicant's lien holders remove equipment or property credited to the salvage value the Applicant shall promptly notify the Zoning Administrator. In either of these events the total financial assurance shall be adjusted to reflect any change in total salvage value and total decommissioning costs resulting from any such removal or installation.

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4. To comply with paragraph 6.1.1 A.5., the Applicant shall provide financial assurance in the form of an irrevocable letter of credit and an escrow account as follows:
  - (a) At the time of Special Use Permit approval the amount of financial assurance to be provided for the site reclamation plan shall be 210% of the decommissioning cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1 A. 4. a. and 6.1.1A.4.b. and 6.1.1A.4.c.
  - (b) Salvage value may be deducted from decommissioning costs as follows:
    - (1) One of the following standards shall be met:
      - i. The Applicant shall maintain the WIND FARM TOWERS free and clear of liens and encumbrances, including financing liens and shall provide proof of the same prior to issuance of the SPECIAL USE Permit; or
      - ii. The Applicant shall deduct from the salvage value credit the amount of any lien or encumbrance on each WIND FARM TOWER; or
      - iii. Any and all financing and/or financial security agreements entered into by the Applicant shall expressly provide that the agreements are subject to the covenant required by Section 6.1.1.A.2 that the reclamation work be done.
    - (2) The Applicant shall provide proof of compliance with paragraph 6.1.4 P.4.(b)(1) prior to issuance of any Zoning Use Permit and upon every renewal of the financial assurance and at any other time upon the request of the Zoning Administrator.
    - (3) The Applicant shall provide in the site reclamation plan for legal transfer of the STRUCTURE to the demolisher to pay the costs of reclamation work, should the reclamation work be performed.
    - (4) Estimated salvage value shall be based on the average salvage price of the past five years as published in a reputable source for salvage values and shall reflect sound

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- engineering judgement as to anticipated changes in salvage prices prior to the next update of estimated salvage value.
- (5) The deduction from the decommissioning costs for salvage value shall be capped at 70% of the total estimated salvage value even though the total actual salvage value shall be available in the event that decommissioning is actually required.
- (6) The credit for salvage value attributable to any WIND FARM TOWER may not exceed the estimated cost of removal of the above-ground portion of that WIND FARM TOWER on the subject site.
- (c) The GOVERNING BODY has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits.
- (d) The Applicant shall adjust the amount of the financial assurance to ensure that it reflects current and accurate information as follows:
- (1) At least once every three years for the first 12 years of the financial assurance and at least once every two years thereafter the Applicant shall use an independent Illinois Licensed Professional Engineer to provide updated estimates of decommissioning costs and salvage value by including any changes due to inflation and / or change in salvage price. The Applicant shall, upon receipt, provide a copy of the adjusted Professional Engineer's report to the Zoning Administrator.
- (2) At all times the total combined value of the irrevocable letter of credit and the escrow account shall equal or exceed the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved and an amount for any future years left in the anticipated 25 year life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.
- (e) The applicant or WIND FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account in equal annual installments over the first 13 years of the WIND FARM operation as follows:

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- (1) The applicant or WIND FARM owner and the GOVERNING BODY shall agree on a mutually acceptable financial institution at which an escrow account shall be established.
- (2) The GOVERNING BODY shall be the beneficiary of the escrow account for the purpose of the reclamation of the WIND FARM in the event that the WIND FARM owner is incapable of decommissioning the WIND FARM.
- (3) The applicant or WIND FARM owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record, pursuant to the Secured Transactions Article of the Uniform Commercial Code, 810 ILCS 9/101 et seq.
- (4) The applicant or WIND FARM owner shall make annual deposits to the escrow account over a 12 year period and shall simultaneously provide a replacement irrevocable letter of credit that is reduced accordingly.
- (5) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the life span of the WIND FARM and the amount shall be equal to or exceed the following:
  - i. the amount of the independent engineer's cost estimate as increased by known and documented rates of inflation since the WIND FARM was approved; plus
  - ii. an amount for any future years left in the anticipated life span of the WIND FARM at an assumed minimum rate of inflation of 3% per year.
- (6) Any interest accrued on the escrow account that is over and above the total value required by subparagraph 6.1.4 P. 3. (b) (4) shall go to the WIND FARM owner.
- (7) In order to provide funding for decommissioning at the time of decommissioning, the WIND FARM applicant or WIND FARM owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the GOVERNING BODY agreeing to a release of the full amount of the escrow account.

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- (f) Should the salvage value of components be adjusted downward or the decommissioning costs adjusted upward pursuant to paragraph 6.1.4 P. 4. (d), the amount to be placed in the escrow account pursuant to this paragraph 6.1.4P.4. shall be increased to reflect the adjustment, as if the adjusted estimate were the initial estimate.
5. In addition to the conditions listed in subparagraph 6.1.1 A. 9. the Zoning Administrator may also draw on the funds for the following reasons:
- (a) In the event that any WIND FARM TOWER or component thereof ceases to be functional for more than six consecutive months after it starts producing electricity and the Owner is not diligently repairing such WIND FARM TOWER or component.
  - (b) In the event that the Owner declares any wind turbine or other component to be functionally obsolete for tax purposes.
  - (c) There is a delay in the construction of any WIND FARM TOWER of more than 6 months after construction on that WIND FARM TOWER begins.
  - (d) Any WIND FARM TURBINE appears in a state of disrepair or imminent collapse and/or creates an imminent threat to the health or safety of the public or any person.
  - (e) Any WIND FARM TURBINE is otherwise derelict for a period of 6 months.
  - (f) The WIND FARM is in violation of the terms of the WIND FARM SPECIAL USE permit for a period exceeding ninety (90) days.
  - (g) The Applicant has failed to maintain financial assurance in the form and amount required by the special use permit or compromised the COUNTY's interest in the site reclamation plan.
  - (h) The COUNTY discovers any material misstatement of fact or misleading omission of fact made by the Applicant in the course of the special use permit zoning case.
6. The Zoning Administrator may, but is not required to, deem the WIND FARM abandoned, or the standards set forth in Section 6.1.4.P.5 met, with respect to some, but not all, of the WIND FARM TURBINES in the WIND FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to those WIND FARM TURBINES only. Upon completion of that reclamation work, the

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salvage value and reclamation costs shall be recalculated as to the remaining WIND FARM TURBINES in the WIND FARM.

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

# **Open Meetings Act**

## **Elected and Appointed Members**

### **OMA Electronic Training**

**Effective January 1, 2012, elected or appointed members of a public body subject to OMA must complete the electronic training once during their term of election or appointment as follows:**

- Any person who is an elected or appointed member of a public body subject to the Act **on** January 1, 2012, must complete the electronic training between January 1, 2012, and January 1, 2013.
- Any person who becomes an elected or appointed member of a public body subject to the Act **after** January 1, 2012, must complete the electronic training no later than the 90th day after taking the oath of office or, if not required to take an oath of office, after otherwise assuming responsibilities as a member of the public body.

Elected or appointed members need not complete the electronic training on an annual basis thereafter unless they are also designated to receive training on compliance with the Open Meetings Act.

The Public Access Counselor's Office's OMA electronic training is available free of charge at:  
[http://foia.ilattorneygeneral.net/electronic\\_foia\\_training.aspx](http://foia.ilattorneygeneral.net/electronic_foia_training.aspx).