



**KENDALL COUNTY
REGIONAL PLANNING COMMISSION**

111 West Fox Street • Rooms 209 and 210 • Yorkville, IL • 60560

AGENDA

Wednesday, March 22, 2023 – 7:00 p.m.

CALL TO ORDER

ROLL CALL: Bill Ashton (Chair), Eric Bernacki, Tom Casey, Dave Hamman, Karin McCarthy-Lange, Larry Nelson (Secretary), Ruben Rodriguez (Vice-Chairman), Bob Stewart, Claire Wilson, and Seth Wormley

APPROVAL OF AGENDA

APPROVAL OF MINUTES Approval of Minutes from February 22, 2023, Meeting (Pages 3-4)

PETITIONS

1. **Petition 23 – 05 – Kendall County Planning, Building and Zoning Committee (Pages 5-7, 14-15)**
Request: Text Amendments to Appendix 7 of the Kendall County Subdivision Control Ordinance by Removing Phone Numbers and Related Text Adjustments
2. **Petition 23 – 06 – Kendall County Planning, Building and Zoning Committee (Pages 5-7, 14-15)**
Request: Text Amendments to Appendix 7 of the Kendall County Subdivision Control Ordinance by Removing References to Specific Engineering Companies, Engineers, and Related Text Adjustments
3. **Petition 23 – 07 – Kendall County Planning, Building and Zoning Committee (Pages 5-6, 8-9, 14-15)**
Request: Text Amendments to Appendix 9 A and Appendix 9 B of the Kendall County Subdivision Control Ordinance by Removing Dead Website Links and Related Text Adjustments
4. **Petition 23 – 08 – Kendall County Planning, Building and Zoning Committee (Pages 5-6, 10, 14-15)**
Request: Text Amendments to Section 3:02 of the Kendall County Zoning Ordinance by Amending the Definitions of Brew Pub and Microbrewery
5. **Petition 23 – 09 – Kendall County Planning, Building and Zoning Committee (Pages 5-6, 10, 14-15)**
Request: Text Amendments to Section 3:02 of the Kendall County Zoning Ordinance by Amending the Definitions of Tent
6. **Petition 23 – 10 – Kendall County Planning, Building and Zoning Committee (Pages 5-6, 10, 14-15)**
Request: Text Amendment to Section 11:05 of the Kendall County Zoning Ordinance by Amending the Permitting Requirements of Occupied Recreational Trailers and Mobile Homes (Specifically Deleting the Reference to the Illinois Mobile Home Safety Act)
7. **Petition 23 – 11 – Kendall County Planning, Building and Zoning Committee (Pages 5-6, 10-15)**
Request: Repealing Ordinance 1998-10 and Text Amendment to Section 13:01 of the Kendall County Zoning Ordinance by Establishing Procedures to Close Inactive Zoning Related Petitions

8. **Petition 23 – 12 – Kendall County Planning, Building and Zoning Committee (Pages 16-49)**
Request: Text Amendments to the Kendall County Zoning Ordinance By Amending Kendall County’s Zoning Regulations Pertaining to Commercial Solar Energy Facilities, Commercial Wind Energy Facilities, Test Solar Energy Facilities, Test Wind Towers, Small Wind Energy Systems, Private Solar Energy Systems, Commercial Wind Farms, Solar Gardens, and Solar Farms
9. **Petition 23 – 13 – Kendall County Planning, Building and Zoning Committee (Pages 50-53)**
Request: Text Amendments to the Kendall County Zoning Ordinance by Amending Kendall County’s Kennel Regulations

CITIZENS TO BE HEARD/PUBLIC COMMENT

NEW BUSINESS:

1. None

OLD BUSINESS:

1. None

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

1. None

OTHER BUSINESS/ANNOUNCEMENTS

ADJOURNMENT Next Regular Meeting April 26, 2023

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Office at 630-553-4171, a minimum of 24-hours prior to the meeting time.

**KENDALL COUNTY
REGIONAL PLANNING COMMISSION**

*Kendall County Office Building
Rooms 209 and 210
111 W. Fox Street, Yorkville, Illinois*

Unapproved - Meeting Minutes of February 22, 2023 - 7:00 p.m.

Chairman Bill Ashton called the meeting to order at 7:04 p.m.

ROLL CALL

Members Present: Bill Ashton, Eric Bernacki, Tom Casey, Dave Hamman, Karin McCarthy-Lange, Larry Nelson (left at 8:23 p.m.), Ruben Rodriguez (left at 8:23 p.m.), Bob Stewart, Claire Wilson, and Seth Wormley (left at 8:27 p.m.)

Members Absent: None

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: None

APPROVAL OF AGENDA

Member Nelson made a motion, seconded by Member Hamman, to approve the agenda with an amendment moving the anti-harassment training to after the planning and zoning training. With a voice vote of ten (10) ayes, the motion carried.

APPROVAL OF MINUTES

Member Nelson made a motion, seconded by Member Rodriguez, to approve the minutes of the January 25, 2023, meeting. With a voice vote of ten (10) ayes, the motion carried.

Chairman Ashton apologized for missing the Annual Meeting.

Discussion occurred regarding bee and chicken regulations. Member Wormley indicated a text amendment would be forthcoming allowing people to have six (6) hens on lots zoned and used for single-family residential purposes. Mr. Asselmeier explained enforcement procedures. Member Nelson provided a history of the legislation allowing counties to regulate farm animals in the unincorporated area. Discussion occurred regarding how cases of avian flu would be handled. Discussion occurred regarding composting of animals.

Member Rodriguez made a motion, seconded by Member Hamman, to approve the minutes of the February 4, 2023, Annual Meeting. With a voice vote of ten (10) ayes, the motion carried.

PETITIONS

None

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

NEW BUSINESS

Planning and Zoning 101 Training

Mr. Asselmeier provided a training covering planning and zoning topics.

Discussion occurred regarding township fence viewers.

Discussion occurred about evaluating cases based on potential uses of land. Mr. Asselmeier provided the bed and breakfast sale example.

Member Nelson expressed concerns about the County overstepping its authority by adding conditions to special use permits. Mr. Asselmeier stated that the conditions have been added to special use permits based on the findings of fact or to address some other part of the zoning ordinance. It was possible that a Petitioner could do the bare minimum of the Zoning Ordinance and not agree to additional conditions in the special use permit. To date, the County has not imposed conditions on Petitioners without their consent or input.

Member Stewart asked what guidance Staff gives Petitioners prior to meetings because some Petitioners seem better prepared than other Petitioners. Mr. Asselmeier responded that Petitioners were encouraged to talk to neighbors prior to application submittal to avoid surprises at meetings. He noted that some people are not good public speakers or handle conflict well. Member Wormley noted the detail necessary for application submittal. Member Stewart said that he encouraged people to attend Plan Commission meetings prior to submitting an application. Chairman Ashton provided the sign example.

Member Rodriguez requested that the presentation be emailed.

Member Nelson discussed the impact of being non-home rule. Discussion occurred regarding the steps to becoming home rule.

Member Nelson discussed the history of updating the County's Land Resource Management Plan, the Annual Meeting, and the need to follow the plan.

Member Bernacki asked about properties that were party to annexation agreements, but were never annexed. Mr. Asselmeier said that annexation agreements can be renewed. The potential for lawful non-conforming uses could occur. In cases of involuntary annexations, a special use permit would go away, but the use would be lawfully non-conforming. Discussion occurred regarding court ordered de-annexations.

OLD BUSINESS

None

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

Mr. Asselmeier reported that Petition 22-27 was approved by the County Board.

OTHER BUSINESS/ANNOUNCEMENTS

Mr. Asselmeier reported there were seven (7) proposed text amendments to the Zoning Ordinance and Subdivision Control Ordinance for the March meeting.

Members Nelson and Rodriguez left at this time (8:23 p.m.). Member Wormley left at this time (8:27 p.m.).

Anti-Harassment Training

Commissioners reviewed the training.

ADJOURNMENT

Member McCarthy-Lange made a motion, seconded by Member Hamman, to adjourn. With a voice vote of seven (7) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:59 p.m.

Respectfully submitted by,
Matthew H. Asselmeier, AICP, CFM
Senior Planner

KCRPC Meeting Minutes 2.22.23



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Regional Planning Commission
From: Matthew H. Asselmeier, AICP, CFM, Senior Planner
Date: March 16, 2023
Re: Proposed Amendments Related to Codification

For the past several months, Staff has been working with the codifiers to get all of the Kendall County's regulations into one (1) code. The codifiers recommended several changes to the Kendall County Zoning Ordinance and Subdivision Control Ordinance. During the review, Staff also identified several changes to these regulations. The codifiers recommended that these changes occur prior to adoption of the new code. Below please find the proposed changes:

1. Petition 23-05 Subdivision Control Ordinance-Appendix 7
Several phone numbers are listed in the Appendix. The accuracy of these phone numbers is unknown. Staff would like to list the organization only and not the phone numbers.
2. Petition 23-06 Subdivision Control Ordinance-Appendix 7
Greg Chismark and WBK Engineering are listed by name. Staff would like to have a general statement regarding stormwater engineering contact information.
3. Petition 23-07 Subdivision Control Ordinance-Appendix 9 A
In the Performance Criteria Section, there is a dead link to information about invasive species. Staff would like a general statement instead of a website link.

Subdivision Control Ordinance-Appendix 9 B
In the Native Plan Resources Section, there are several dead links. Staff would like general references instead of website links.
4. Petition 23-08 Zoning Ordinance Section 3:02
The definitions of Brew Pub and Microbrewery should be amended to correspond to State law.
5. Petition 23-09 Zoning Ordinance Section 3:02
The definition of Tent should be expanded to include tents outside of campgrounds.
6. Petition 23-10 Zoning Ordinance Section 11:05.D.2
This section references a State law that does not exist.
7. Petition 23-11 Ordinance 1998-10
This Ordinance established procedures for closing inactive petitions. This Ordinance is outdated and now only applies to the Zoning Ordinance and Stormwater Management Ordinance. Staff is working with the State to incorporate the language in the Stormwater Ordinance; the Zoning Ordinance should be changed prior to adoption of the new code.

Redlined versions of the proposed changes are attached.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

The proposals were emailed to the townships on February 23, 2023.

ZPAC met on the proposals on February 28, 2023, and recommended approval of the proposal by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting are attached.

If you have any questions regarding this memo, please let me know.

MHA

Encs: Redline Proposal
 Ordinance 98-10
 February 28, 2023, ZPAC Meeting Minutes (These Petitions Only)

1. Petition 23-05
2. Petition 23-06

Local Government Representatives:

Please refer to the Kendall County website for contact information for contact information for the following organizations:

Kendall County Planning, Building & Zoning Department - ~~Planning Rep: Phone (630) 553-4139~~
~~Building Rep: Phone (630) 553-4134~~

County Highway Department ~~Phone: (630) 553-7616~~

Kendall County Consulting Engineer ~~-(Greg Chismark at WBK Engineering)~~
~~Phone: (630) 443-7755~~

Township Highway Department - Contact the corresponding department for the township in which the project is located. If the project is split between more than one township, a representative from each of the affected townships will need to attend. ~~Contact phone numbers for each are as follows:~~

~~Little Rock Township Hwy. Department Phone: (630) 552-3304~~
~~Bristol Township Hwy. Department Phone: (630) 553-0101~~
~~Oswego Township Hwy. Department Phone: (630) 264-4587~~
~~Fox Township Hwy. Department Phone: (630) 553-5904~~
~~Kendall Township Hwy. Department Phone: (630) 553-7133~~
~~Na-Au-Say Township Hwy. Department Phone: (815) 254-7708~~
~~Big Grove Township Hwy. Department Phone: (815) 695-9443~~
~~Lisbon Township Hwy. Department Phone: (815) 475-7160~~
~~Seward Township Hwy. Department Phone: (815) 475-4613~~

Kendall County Health Department – Environmental Health
~~Phone: (630) 553-9100~~

Optional

Kendall County Soil & Water Conservation District
~~Phone: (630) 553-5821 ext. -- 3~~

Additional individuals may be invited to attend at the developer's discretion and may include utility companies, school, park or open space agency representatives (if project involves regional trails or land donations), local Fire Department or others as may be appropriate.

Performance Criteria

In order to ensure adequate diversity of plants, to respond to varying environmental and hydrologic conditions, to ensure the establishment of native landscapes that are functional, aesthetic, and cost-effective, and to provide reasonable variety to meet aesthetic expectations, a minimum of 10 species of native plants are required within any naturalized stormwater facility, such as naturalized detention basins or swales. A minimum of 40 native species will be established in any upland landscapes.

The success of natural landscaping can be affected by the appropriateness of the plant species selected, the effectiveness of the grading and seedbed preparation, the quality of the seed and plant material used, the timing of the planting, and attention to early maintenance. With upland prairie, savanna, and woodland restoration or establishment (see definitions), it generally is appropriate to leave soils undisturbed since mass grading will result in compacted soils and may lead to serious weed problems. Land currently under agricultural row crop production should remain undisturbed if possible until prairie seeding can be accomplished. This will contribute to the success of the native landscape by preventing the establishment of weeds and minimizing the corruption of the seed bank. The success of the project will be formally evaluated by the following vegetation performance standards monitored over time.

- By the end of the first full growing season, planted areas should have 90 percent vegetation cover and no area greater than 1.0 meter square shall be devoid of vegetation. A cover crop of annual rye or oats may be used to help achieve this goal. At least 75 percent of the plugs, root stock, and tubers, and 50 percent of the seeded species should be present and alive. If an area is designed as an aquatic or emergent system, it is anticipated that portions of the submerged area will be periodically exposed and without vegetation cover due to fluctuating water levels. If, by the end of the first full growing season, the basin emergent zones and/or side slopes fail to support the establishment of sufficient vegetation, then corrective measures regarding the fundamental design of the area and/or planting plan shall be required.
- During the second growing season at least 60 percent of the permanent species planted in seed form should be evident. Ninety percent or more of species planted as plugs, root stock, and tubers, shall also have persisted into the second season. If this fails to occur, a determination must be made as to why and remedial action shall be necessary. Remediation may include overseeding and/or plugging of appropriate species. Finally, undesirable, invasive plant species shall not be prevalent in any of the management units. No invasive, weedy species, including any of the following, shall be among the five most dominant plant species in the overall vegetative cover.

- Reed canary grass (*Phalaris arundinacea*)
- Common reed (*Phragmites australis*)
- Purple loosestrife (*Lythrum salicaria*)
- Non-native thistle (*Cirsium spp.*, *Carduus spp.*)
- Sweet clover (*Melilotus spp.*)
- Crown vetch (*Coronilla varia*)
- Wild parsnip (*Pastinaca sativa*)
- Burdock (*Arctium spp.*)
- Garlic mustard (*Alliaria petiolata*)
- Teasel (*Dipsacus spp.*)
- Ragweed (*Ambrosia spp.*)
- Kentucky bluegrass (*Poa pratensis*)
- Buckthorn (*Rhamnus spp.*)
- Sandbar willow (*Salix interior*)
- Honeysuckle (*Lonicera spp.*)
- Multiflora rose (*Rosa multiflora*)
- Box elder (*Acer negundo*)

A more complete listing of common invasive species **can be found on the Illinois Department of Natural Resource's website. is found in the Illinois Nature Preserve Management Guidelines: http://dnr.state.il.us/INPC/Management_guidelines.htm**

- At the end of the third full growing season, at least 75 percent of the seeded permanent species and 90 percent or more of species planted as plugs, root stock, and tubers are expected to be established. Alternatively, native perennial species that volunteer on the site, excluding undesirable invasive species, may also be counted in determining the preceding criteria. Qualitative vegetative sampling within each management area shall achieve the following to be determined a success and a mean Coefficient of Conservatism shall meet or exceed 3 and the Floristic Quality Index shall meet or exceed 20, except in designated stormwater management facilities (Swink and Wilhelm).
- The five most dominant species of the overall vegetative cover within each management unit shall not include any of the undesirable species referenced above under the 2nd season performance standards. If the identified level of species development fails to occur, a determination must be made as to why, and a remedial action plan must be prepared and submitted to the Kendall County Planning, Building and Zoning Department (KCPBZ) for approval. The approved remedial plan must be implemented and continued monitoring will be required beyond the third growing season until these performance criteria are met. Where the minimum performance standards cannot be achieved, a written explanation and alternative performance standards must be submitted for consideration by the Planning, Building and Zoning Department.

APPENDIX NINE (B) NATIVE PLANTING RESOURCES

Suggested references for restoration and natural landscaping include:

Illinois Nature Preserve Management Guidelines, Illinois Nature Preserves Commission.
http://dnr.state.il.us/INPC/Management_guidelines.htm

Tallgrass Restoration Handbook, for Prairies, Savannas, and Woodlands, S. Packard and C. Mutel, Society for Ecological Restoration, 1997.

Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois, USDA Natural Resources Conservation Service, 2004. <http://www.il.nrcs.usda.gov/technical/plants/npg/NPG-toc.html>

Natural Landscaping for Local Officials: Design and Management Guidelines, Northeastern Illinois Planning Commission, 2004.
<http://www.nipc.org/environment/sustainable/naturallandscaping/installation%20and%20maintenance%20guide.pdf>

Plants of the Chicago Region, F. Swink and G. Wilhelm, the Morton Arboretum, Published by the Indiana Academy of Science, 1994.

Kane County Wild Plants & Natural Areas, 3rd Edition, D. Young, 2008

4. Petition 23-08

~~BREW PUB. A restaurant-brewery where the beer is brewed primarily for sale in the restaurant and bar. A brew pub shall not sell for off-premises consumption more than 50,000 gallons per year. A person, including a restaurant or brewery, who manufactures no more than one hundred fifty-five thousand (155,000) gallons of beer per year only at a designated licensed premises to make sales to importing distributors, distributors, and to non-licensees for use and consumption only, who stores beer at the designated premises, and who is allowed to sell at retail from the licensed premises, provided that a brew pub licensee shall not sell for off-premises consumption more than one hundred fifty-five (thousand) 155,000 gallons per year. (235 ILCS 5/1-3.33).~~

~~MICROBREWERY. A brewery that produces between 1,000 barrels and 15,000 barrels (31,000 to 465,000 gallons) of beer per year with 75% or more of its beer sold off-site. A person, including a brewery, who is a holder of a brewer license or non-resident dealer license who manufactures up to 930,000 gallons of beer per year and who may make sales and deliveries to importing distributors and distributors and to retail licensees in accordance with the conditions set forth in the Illinois Liquor Control Act. Also referred to as a "Class 1 brewer" per 235 ILCS 5/1-3.38~~

5. Petition 23-09

~~TENT. Collapsible shelter of canvas or other material stretched and sustained by poles fixed in the ground and used for a temporary outdoor camping shelter. A structure, enclosure, umbrella structure, or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the contents it protects.~~

6. Petition 23-10

~~Occupied recreational trailers and mobile homes subject to permit requirements must show evidence of compliance with federal HUD regulations or the Illinois Mobile Home Safety Act applicable State law.~~

7. Petition 23-11

1. Delete Ordinance 1998-10 in its entirety.
2. Section 13:01.A is amended by adding the following:

~~"4. Procedure in case of petition inactivity. The Zoning Administrator may declare an application for text amendment, map amendment, special use permit, major or minor amendments to special use permits, administrative or traditional variance, conditional use permit, or site plan review closed if the party requesting the action has ceased communications with the Planning, Building and Zoning Department for a period of six (6) months and the following actions are taken:~~

- a. ~~The Zoning Administrator shall send a certified letter to the applicant at the address stated on the original application stating that the petition will be closed for inactivity. The applicant will be informed that they have sixty (60) days from the date of the letter to re-activate the petition.~~
- b. ~~If the Zoning Administrator does not receive a response in writing within sixty (60) days of the date the letter was mailed, the petition shall be dismissed by the Zoning Administrator.~~
- c. ~~If the Zoning Administrator receives communication that the applicant would like to keep the petition active, the Zoning Administrator shall keep the petition open.~~

- d. **If an applicant believes that the Zoning Administrator incorrectly closed an application for inactivity, the applicant shall submit an appeal to the Planning, Building and Zoning Committee outlining the reasons why the application should remain active. The Planning, Building and Zoning Committee shall conduct an initial review of the appeal at their next available Committee meeting. If the Planning, Building and Zoning Committee rules in favor of the applicant, the application shall be re-activated. If the Planning, Building and Zoning Committee rules against the applicant, the application shall be considered closed.”**

ORDINANCE # 98-10

PETITION TIME LIMIT ORDINANCE

WHEREAS, the Kendall County regulates development under authority of its Zoning Ordinance, Storm Water Runoff Ordinance, Soil and Erosion Control Ordinance, Subdivision Control Ordinance, Special Flood Hazard Areas Ordinance, and related ordinances; and

WHEREAS, the Kendall County Board amends these ordinances from time to time; and

WHEREAS, inactive petitions for development approval may become obsolete or non-compliant with the amended ordinances; and

WHEREAS, several current petitions for development approval to the Planning, Building and Zoning Department have been inactive; and

WHEREAS, the potential for future petitioners to continue to delay the petition process indefinitely does exist; and


WHEREAS, all administrative procedures for ordinances have been followed including a Public Hearing was held before the Kendall County Zoning Board of Appeals;

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby adopts the following Petition Time Limit Ordinance:

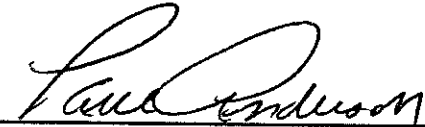
- A. All petitioners with petitions on file, or will be filed after the date on which this ordinance was enacted, that have been inactive for the past six (6) months shall be notified in writing that:
1. The petition has been inactive for at least six (6) months
 2. If the petitioner chooses to continue with their petition, they have sixty (60) days from the date on the letter to activate the petition.
 3. If the Zoning Administrator has not received a written response within sixty (60) days of the date on the letter, the petition shall be dismissed by the Zoning Administrator.
 4. If the petitioner can provide documentation that the petition has not been inactive or will be re-activated, the Zoning Administrator can decide not to dismiss.

- B. The Zoning Administrator shall dismiss any petition that has been inactive for at least six (6) months after a sixty (60) day notification period, which begins at the date on the notification letter.
- C. The petitioner may appeal the Zoning Administrator's decision regarding dismissal to the Planning, Building, and Zoning Committee of the Kendall County Board at the next available, regularly scheduled meeting after the decision.
- D. Petition Time Limit Definitions:
 - 1. "Inactive" means any instance when a petition has not been:
 - a. On an agenda of a committee or board authorized to review the petition by ordinance or statute; or
 - b. Within an impact study or other reasonable analytical investigation commissioned or required by Kendall County or other governmental entity.
 - 2. "Petition" means any zoning or site development petition, application, request, or letter of intent accepted by the Kendall County Planning, Building, and Zoning Department. The following are excluded since the time limit is regulated under a separate ordinance:
 - a. Building Permit Applications are regulated under the Kendall County Building Code Ordinance 94-06.
 - b. Preliminary Plats and Final Plats are regulated under the Kendall County Subdivision Control Ordinance enacted on August 10, 1971.
 - 3. "Petitioner" means any owner of property filing said petition.

IN WITNESS OF, this Ordinance was approved by the Kendall County Board on June 16, 1998.



John A. Church
Kendall County Board Chairman



Paul Anderson
Kendall County Clerk

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
February 28, 2023 – Unapproved Meeting Minutes**

PBZ Chairman Seth Wormley called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
David Guritz – Forest Preserve
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Commander Jason Langston – Sheriff’s Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department
Seth Wormley – PBZ Committee Chair

Absent:

Greg Chismark – WBK Engineering, LLC

Audience:

Doug Westphal

PETITIONS

Without objection, Petitions 23-05, 23-06, 23-07, 23-08, 23-09, 23-10, and 23-11 were combined.

Petitions 23-05, 23-06, 23-07, 23-08, 23-09, 23-10, and 23-11 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the requests.

For the past several months, Staff has been working with the codifiers to get all of the Kendall County’s regulations into one (1) code. The codifiers recommended several changes to the Kendal County Zoning Ordinance and Subdivision Control Ordinance. During the review, Staff also identified several changes to these regulations. The codifiers recommended that these changes occur prior to adoption of the new code. Below please find the proposed changes:

1. Petition 23-05 Subdivision Control Ordinance-Appendix 7
Several phone numbers are listed in the Appendix. The accuracy of these phone numbers is unknown. Staff would like to list the organization only and not the phone numbers.
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Greg Chismark and WBK Engineering are listed by name. Staff would like to have a general statement regarding stormwater engineering contact information.
3. Petition 23-07 Subdivision Control Ordinance-Appendix 9 A
In the Performance Criteria Section, there is a dead link to information about invasive species. Staff would like a general statement instead of a website link.

Subdivision Control Ordinance-Appendix 9 B
In the Native Plan Resources Section, there are several dead links. Staff would like general references instead of website links.
4. Petition 23-08 Zoning Ordinance Section 3:02
The definitions of Brew Pub and Microbrewery should be amended to correspond to State law.
5. Petition 23-09 Zoning Ordinance Section 3:02
The definition of Tent should be expanded to include tents outside of campgrounds.
6. Petition 23-10 Zoning Ordinance Section 11:05.D.2
This section references a State law that does not exist.

7. Petition 23-11 Ordinance 1998-10
This Ordinance established procedures for closing inactive petitions. This Ordinance is outdated and now only applies to the Zoning Ordinance and Stormwater Management Ordinance. Staff is working with the State to incorporate the language in the Stormwater Ordinance; the Zoning Ordinance should be changed prior to adoption of the new code.

Redlined versions of the proposed changes were provided.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

Mr. Holdiman made a motion, seconded by Mr. Rybski, to recommend approval of the proposals.

The votes were follows:

Ayes (9): Asselmeier, Briganti, Guritz, Holdiman, Klaas, Langston, Olson, Rybski, and Wormley
Nays (0): None
Abstain (0): None
Absent (1): Chismark

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on March 22, 2023.

PUBLIC COMMENT

Doug Westphal expressed concerns about townships maintaining their roads when large renewable energy projects occur. Mr. Asselmeier noted the road use agreement requirement in the law.

ADJOURNMENT

Mr. Guritz made a motion, seconded by Mr. Klaas, to adjourn.

With a voice vote of nine (9) ayes, the motion carried.

The ZPAC, at 9:54 a.m., adjourned.

Respectfully Submitted,
Matthew H. Asselmeier, AICP, CFM
Senior Planner



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Regional Planning Commission
From: Matthew H. Asselmeier, AICP, CFM, Senior Planner
Date: March 16, 2023
Re: Solar and Wind Energy Regulations

In January 2023, the Illinois General Assembly approved and the Governor signed House Bill 4412 pertaining to commercial wind and solar energy systems. The new law requires that the County update its solar and wind regulations by May 27, 2023, in order to be able to have regulations governing commercial solar energy facilities and commercial wind energy facilities.

The proposed amendments are attached. For reference, items in red are proposed changes and changes in bolded black are items that need to be discussed due to potential conflicts with State law.

General proposed changes are as follows:

1. Various definitions related to solar and wind energy facilities are proposed to be amended, added, and deleted. Many terms are defined in State law and were referenced as such. The definitions of solar farm and solar gardens were removed. The definitions of solar energy system, private and wind energy system, small were adjusted to reflect State law. Onsite consumption would include energy generated within a subdivision, planned development, or business park and consumed within the development.
2. Small wind energy systems would become permitted accessory uses. They would be added to the list of uses in the R-3 in addition to their existing allowance in the A-1, R-1, R-2, RPD, Business, and Manufacturing Districts. Solar energy system, private would become permitted uses in all zoning districts.
3. Commercial solar energy facilities, test solar energy systems, commercial energy wind facilities and test wind towers would become special uses in the A-1, R-1, RPD Districts, and Manufacturing Districts.
4. Adding a statement that the regulations do not apply to commercial wind energy facilities within one point five (1.5) miles of a municipality, unless the County has an Intergovernmental Agreement with the municipality to provide zoning services to the municipality. Staff added a requirement that solar and wind energy facilities within one point five (1.5) miles of a municipality must either annex to the municipality or enter into a pre-annexation agreement with the municipality using the Chatham annexation rules.
5. Add a requirement that the County Board shall make its decision on the application not more than thirty (30) days after the conclusion of the public hearing.
6. As proposed, the new setbacks would follow State law.
7. As proposed changes in setbacks, certain height requirements for solar, and fencing requirements would be allowed if nonparticipating property owners consent to these requirements. As proposed, the changes would be allowed to occur if documentation was provided at the time of application submittal.

8. As proposed, sound regulations would follow State law.
9. As proposed, agricultural impact mitigation agreements have to be submitted with the application.
10. The County's landscaping requirements were adjusted to reflect the law.
11. Statements requiring compliance with EcoCat reports, Fish and Wildlife Service reports, and Illinois State Historic Preservation consultations were added to the Zoning Ordinance.
12. Statements regarding road use agreements were adjusted to reflect the law.
13. Language was added related to the enforcement of damaged drain systems.

The new law is also attached.

A map showing the one point five mile (1.5) planning boundaries was also attached.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

The proposal was emailed to the townships on February 15, 2023.

ZPAC met on the proposals on February 28, 2023. Discussion occurred regarding wind and solar projects on Forest Preserve property; uses within the confines of the Downstate Forest Preserve Act are exempt from zoning. Discussion occurred regarding requiring properties to be annexed to municipalities; municipalities could choose to enter into annexation agreements without annexing the property. If a property owner was not agreeable to an annexation or annexation agreement, litigation could arise. Discussion occurred regarding some counties choosing not to regulate these uses or to have the uses as permitted uses because the county may not want to have zoning hearings that cannot alter a project. Discussion occurred regarding the precedence of the State taking away a county's zoning authority. The State's Attorney's Office has not reviewed the proposal. ZPAC voted to issue a neutral recommendation by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of the meeting are attached.

If you have any questions regarding this memo, please let me know.

MHA

Enc.: Redlined Proposal
New State Law
1.5 Mile Map
February 28, 2023 ZPAC Minutes (This Petition Only)

Section 3:02 (Definitions)

ACTIVE SOLAR ENERGY SYSTEM. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS. An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

COMMERCIAL SOLAR ENERGY FACILITY. Shall have the same meaning as defined in 55 ILCS 5/5-12.

COMMERCIAL WIND ENERGY FACILITY. Shall have the same meaning as defined in 55 ILCS 5/5-12.

~~**GRID-INTERIE SOLAR ENERGY SYSTEM.** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.~~

~~**GROUND MOUNT SOLAR ENERGY SYSTEM.** A solar energy system mounted on a rack or pole that rests on or is attached to the ground.~~

FACILITY OWNER. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a facility owner shall have the same meaning defined in 55 ILCS 5/5-12.

NONPARTICIPATING PROPERTY. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating property shall have the same meaning as defined in 55 ILCS 5/5-12.

NONPARTICIPATING RESIDENCE. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a nonparticipating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

OCCUPIED COMMUNITY BUILDING. For the purposes of commercial solar energy facilities and commercial wind energy facilities, an occupied community building shall have the same meaning as defined in 55 ILCS 5/5-12.

OFF-GRID SOLAR ENERGY SYSTEM. A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

PARTICIPATING PROPERTY. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating property shall have the same meaning as defined in 55 ILCS 5/5-12.

PARTICIPATING RESIDENCE. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a participating residence shall have the same meaning as defined in 55 ILCS 5/5-12.

~~**PASSIVE SOLAR ENERGY SYSTEM.** A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.~~

~~PHOTOVOLTAIC SYSTEM. An active solar energy system that converts solar energy directly into electricity.~~

PROTECTED LANDS. For the purposes of commercial solar energy facilities and commercial wind energy facilities, protected lands shall have the same meaning as defined in 55 ILCS 5/5-12.

ROOF MOUNT SOLAR ENERGY SYSTEM. A solar energy system that is mounted on a rack that is fastened onto a building roof.

~~SOLAR ACCESS. Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.~~

SOLAR COLLECTOR. An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

~~SOLAR ENERGY EASEMENT. An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.~~

SOLAR ENERGY SYSTEM (SES). All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

~~SOLAR ENERGY SYSTEM ADDITION. A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.~~

SOLAR ENERGY SYSTEM, PRIVATE. A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot, **planned development, commercial and industrial park, or subdivision** on which or **in which** said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

~~SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.~~

~~SOLAR GARDEN. A commercial solar electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses located off-site from the location of the solar energy system.~~

~~**SOLAR HEAT EXCHANGER. A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.**~~

SOLAR HOT AIR SYSTEM. An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

SOLAR HOT WATER SYSTEM. A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

~~**SOLAR MOUNTING DEVICES. Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.**~~

~~**SOLAR STORAGE UNIT. A component of a solar energy device that is used to store solar generated electricity or heat for later use.**~~

SUPPORTING FACILITIES. For the purposes of commercial solar energy facilities and commercial wind energy facilities, supporting facilities shall have the same meaning as defined in 55 ILCS 5/5-12.

WIND ENERGY SYSTEM, SMALL A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity **of not more than 100 kW that does not meet the kilowatt capacity in total nameplate generating capacity as defined by 55 ILCS 5/5-12** and which is intended to primarily reduce onsite consumption of utility power. If all applicable regulations are met a small wind energy system may contain more than one wind energy conversion system. **This system may power properties in planned developments, commercial and industrial parks, or subdivisions on which or in which said system is located.**

~~**WIND FARM, COMMERCIAL A single wind driven machine or a collection of wind driven machines or turbines that convert wind energy into electrical power for the primary purpose of sale, resale or offsite use.**~~

WIND TOWER. For the purposes of commercial solar energy facilities and commercial wind energy facilities, a wind tower shall have the same meaning as defined in 55 ILCS 5/5-12.

Section 4:05.A. (Accessory Uses)

12. Small wind energy system (Permitted as **Conditional** Accessory Use only in the A-1, R-1, R-2, **R-3**, and all Business and Manufacturing Districts – may also be approved as part of a Residential Planned Development) subject to the conditions of Section 4:17.

13. ~~Solar panels~~ **Solar Energy System, Private subject to the conditions of Section 4:18.**

Section 4:17

4:17 SMALL WIND ENERGY SYSTEMS

A. Total Height: There is no limitation on tower height, except as imposed by setback, clear one and FAA regulations.

B. Setback: The wind energy system shall be set back a distance equal to one hundred ten (110) percent of the hub height from all adjacent property lines. Additionally, no portion of the small wind energy system, including guy wire anchors, may extend closer than ten (10) feet to the property line.

C. Clear Zone: The wind energy system shall maintain a circular clear zone that has a radius which is equivalent to one hundred and ten (110) percent of the hub height. This clear zone shall be maintained free of any occupied structures on adjoining properties, tanks containing combustible/ flammable liquids, and above ground utility/electrical lines.

D. Noise: Wind energy systems shall not exceed sixty (60) dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

E. Tower Security: Any climbing apparatus must be located at least twelve (12) feet above the ground, and the tower must be designed to prevent climbing within the first twelve (12) feet.

F. Lighting: Wind energy systems shall not be artificially lighted with accent lighting. For the protection of the flight patterns of aircraft and the protection of heliports, airports and landing strips, wind energy systems must be lighted in accordance to the regulations and guidelines of the Federal Aviation Administration (FAA) regulations or appropriate authorities.

G. Signs/Advertising: No tower should have any sign, writing, or picture that may be construed as advertising.

H. Visual Effects and Safety. All reasonable visual and safety concerns of adjacent property owners must be resolved before Construction/Use Permit will be issued. When an applicant intends to submit a Construction/Use Permit Application to the PBZ Department, he/she must also submit a copy of the completed conditional use application form to each adjacent neighbor at least 15 days prior to the issuance of a conditional use permit. If there are negative comments from neighbors, staff will attempt to resolve these negative neighbor comments with the applicant. If staff is unsuccessful in resolving concerns of the neighbors with the applicant, staff will schedule and provide notice of a public hearing before the Kendall County Planning Commission to review and make a determination on the pending application and unresolved issues. At this public hearing the Kendall County Planning Commission will take testimony from staff, the neighbors and the applicant, and then will make a determination, based on the evidence presented, to approve, conditionally approve or deny the application. Any decision by staff or the Planning Commission may be appealed to the County Board.

I. Multiple wind energy systems: Multiple wind energy systems are allowed on a single parcel as long as the owner/operator complies with all noncommercial wind farm regulations contained in these regulations. Units shall be installed in compliance with minimum setback and clear zone requirements, as defined by these regulations. The minimum distance between wind energy systems shall be equivalent to one hundred ten (110) percent of the hub height.

J. Approved Wind Turbines: At the time of application, the applicant must present a certification from the manufacturer that the system's turbine and other components equal or exceed the standards of one of the following national certification programs such as the: California Energy Commission, National Electrical Code (NEC), American National Standards Institute (ANSI), Underwriters Laboratories (UL), or any other small wind certification program recognized by the American Wind Energy Association.

K. Onsite Electrical Use: On the Construction/Use Permit Application, the applicant must certify that the proposed system will be used primarily to reduce onsite consumption of electricity.

L. Compliance with the National Electrical Code: Construction/Use Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

M. Removal of Defective or Abandoned Wind Energy Systems: Any wind energy system found to be unsafe by an authorized county official shall be repaired by the owner to meet federal, state and local safety standards or removed within six months. If any wind energy system is not operated for a continuous period of twelve (12) months, the county will notify the landowner by registered mail and provide forty-five (45) days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the county deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within one hundred twenty (120) days of receipt of notice from the county.

Section 4:18

Solar Panels-Solar Energy System, Private

A. Roof Mounted for On-Site Energy Consumption. Solar panels located on the roof of an existing structure shall be permitted in all districts. Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted. Roof mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. Roof mounted or building integrated private solar energy systems for residential or business use shall be considered an accessory use in all zoning districts where there is a principal structure and shall meet the regulations of the Kendall County Zoning Ordinance. Roof mounted solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of roof mounted solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

B. Freestanding for On-Site Energy Consumption. Solar panels located on the ground or attached to a framework located on the ground shall be classified as accessory structures in all zoning districts provided that the system is no larger than necessary to provide one hundred twenty percent (120%) of the electrical and/or thermal requirements of the structure, **planned development, commercial and industrial park, or subdivision** to which it is accessory as determined by a contractor licensed to install photovoltaic and thermal solar energy systems. **Freestanding solar energy systems, private may be the first structure constructed on lots zoned residential, business, or manufacturing.** Freestanding solar panels shall be permitted if they comply with the standards listed in the Kendall County Zoning Ordinance. Ground or pole mounted solar energy systems shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located. Freestanding solar panels used as accessory to agricultural uses and which the energy generated from the solar panels is consumed on-site shall be exempt from building permits. The use of freestanding solar panels for on-site energy consumption shall comply will all applicable federal, state, and local laws and the rules of the local electrical utility.

~~C. Solar Gardens. Solar gardens shall be allowed in all zoning districts and shall require a special use permit whether accessory or principal use of the property subject to the following requirements:~~

- ~~1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar gardens must comply with all required standards for structures in the district in which the system is located.~~
- ~~2. Rooftop community systems are permitted in all zoning districts where buildings are permitted.~~
- ~~3. Ground-mount community solar energy gardens must be less than or equal to twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms.~~
- ~~4. Solar gardens are subject to Kendall County's Stormwater Management Ordinance and NPDES permit requirements.~~
- ~~5. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.~~
- ~~6. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.~~

~~D. Solar Farms. Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market are permitted under the following standards:~~

- ~~1. Unless otherwise noted in the Kendall County Zoning Ordinance, solar farms must comply with all required standards for structures in the district in which the system is located.~~
- ~~2. Solar farms are subject to Kendall County's Stormwater Management Ordinance and NPDES permit requirements.~~
- ~~3. Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run-off and build soil. A plan must be approved by the Kendall County Soil and Water Conservation District and paid for by the developer. Applicable noxious weed ordinances shall be followed. Due to potential County liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)), it is required that any crops or vegetation planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually and paid for by the developer.~~
- ~~4. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.~~
- ~~5. All solar farms shall be in compliance with all applicable local, state and federal regulatory codes and the National Electric Code, as amended.~~

~~6. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Kendall County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding infeasible, at the discretion of the Kendall County Planning, Building and Zoning Department. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.~~

~~7. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by Kendall County. The site plan should also show all zoning districts and overlay districts.~~

~~E. C.~~ Setback Requirements. Unless otherwise stated in the Kendall County Zoning Ordinance, the setback requirements for all solar energy systems shall meet the structure minimum setback requirements when the solar energy system is oriented at any and all positions. No solar energy system shall be located in any front yard of any residentially zoned or used property.

~~F. D.~~ Design Standards. Active solar energy systems shall be designed to conform to the County's Land Resource Management Plan and to blend into the architecture of the building or may be required to be screened from the routine view from public rights-of-way other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

1. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

2. Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

3. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

4. Damaged field drain tile shall be repaired or rerouted on a timetable approved by the Kendall County Planning, Building and Zoning Department.

~~G. E.~~ Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for firefighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious

surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

H. F. Plan Approval Required. All solar energy systems shall require administrative plan approval by the Kendall County Building Official via the review of the application for a building permit.

1. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system including the property lines.
2. For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
3. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
4. Applications that meet the design requirements of the Kendall County Zoning Ordinance and do not require an administrative variance shall be granted administrative approval by the Zoning Administrator and not require Planning, Building and Zoning Committee review. Plan approval does not indicate compliance with Building or Electrical Codes.

H. G. Approved Solar Components. Electric solar energy system components must have a UL listing approved equivalent and solar hot water systems must have an SRCC rating.

H. H. Compliance with Building Code. All active solar energy systems shall meet approval of County building officials; solar thermal systems shall comply with HVAC-related requirements of the Illinois State Energy Code. All County adopted building codes will apply and take precedence where applicable.

H. I. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

H. J. Building Permit Requirements and Fees. All solar energy systems will be required to have a Kendall County Building Permit before any work can be started. A written plan and a plat/drawing for the proposed solar energy system shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated. Fees for processing the applications for building permits shall be established by the County Board. Any solar energy system that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee. The above fees do not apply to solar energy systems used to generate energy for on-site consumption of energy for agricultural purposes.

~~M. Liability Insurance and Indemnification.~~

~~1. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars (\$3 Million) per occurrence and Five Million Dollars (\$5 Million) in the aggregate. Such insurance may be provided~~

~~pursuant to a plan of selfinsurance, by a party with a net worth of Twenty Million Dollars (\$20 Million) or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.~~

~~2. Any SES(s), applicant, owner, or operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of applicant, owner, or operators selection, construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the County's other indemnification rights available under the law.~~

~~N.~~ **K. Decommissioning Plan.**

1. Upon the request of the Kendall County Planning, Building and Zoning Department, an owner of a solar energy system must provide documentation, within thirty (30) days, that the solar energy system is still in use. If the solar energy system is not in use, the owner of the system shall have 180 days, after notification from the Kendall County Planning, Building and Zoning Department, to remove the solar energy system from the property.

~~2. A decommissioning plan shall be required at the time of applying for all solar farms and solar gardens to ensure that the facilities are properly removed after their useful life.~~

~~3.~~ **2.** Decommission of solar panels must occur in the event they are not in use for ninety (90) consecutive days.

~~4. The owner or operator will have six (6) months to complete the decommissioning plan after operation of a solar farm or solar garden ceases.~~

~~5. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.~~

~~6. The Kendall County Board shall require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility.~~

~~7. In the event that the State of Illinois enacts a law with regards to the decommissioning of a solar farm, the strictest requirements shall prevail.~~

~~O.~~ **L. Other Requirements.**

~~1. Upon request from the Kendall County Planning, Building and Zoning Department, the owner or operator of a solar farm or a solar garden must submit, within fourteen (14) calendar days, a current operation and maintenance report to the Department.~~

~~2. In all undeveloped areas, the solar energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the Kendall County Planning, Building and Zoning Department before a permit or special use permit will be issued.~~

~~3.~~ 1. No fencing is required; however, if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

~~4. Any lighting for solar farms or solar gardens shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.~~

~~5.~~ 2. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

~~6.~~ 3. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

~~7.~~ 4. Solar energy systems must be in compliance with all State of Illinois Plumbing and Energy Codes.

~~8.~~ 5. For solar energy systems located within five hundred feet (500') of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

N. Applicability. The regulations in this Section apply only to solar energy system, private and do not apply to commercial solar energy facilities.

Section 7:01.D (A-1 Special Uses)

Add Commercial Solar Energy Facility and Test Solar Energy Systems to the appropriate place alphabetically in the list of special uses subject to the following:

- a. All commercial solar energy facilities and test solar energy systems located within one point five (1.5) miles of a municipality shall either annex to the municipality or obtain an annexation agreement with the municipality requiring the municipality's regulations to flow through the property.
- b. The setbacks for commercial solar energy facilities shall be measured from the nearest edge of any component of the facility as follows:

Occupied Community Buildings Dwellings on Nonparticipating Properties	One hundred fifty feet (150') from the nearest point on the outside wall of the structure
Boundary Lines of Participating Properties	None
Boundary Lines of Nonparticipating Properties	Fifty feet (50') to the nearest point on the property line of the nonparticipating property
Public Road Rights-Of-Way	Fifty feet (50') from the nearest edge

The above setbacks do not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.

- c. A commercial solar energy facility's perimeter shall be enclosed by fencing having a height of at least six feet (6') and no more than twenty-five feet (25').
- d. No component of a solar panel as part of a commercial solar energy facility shall have a height of more than twenty feet (20') above ground when the solar energy facility's arrays are at full tilt.
- e. The above setback, fencing, and component height requirements may be waived subject to written consent of the owner of each affected nonparticipating structure. **This written consent shall be submitted at the time of application submittal.**
- f. Sound limitations for components in commercial solar energy facilities shall follow the sound limitations established by the Illinois Pollution Control Board.
- g. The County shall not require standards for construction, decommissioning, or deconstruction of a commercial solar energy system or related financial assurances to be more restrictive than agricultural impact mitigation agreement set in State law. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by the agricultural impact mitigation agreement, minus the salvage value of the project. **A copy of the agricultural impact mitigation agreement shall be submitted with the application materials.**
- h. A vegetative screening shall be placed around the commercial solar energy facility.
- i. Commercial solar energy facility applicants shall provide the results and recommendations from consultations with the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool (EcoCat) or a comparable successor tool. The commercial solar energy facility applicant shall adhere to the recommendations provided through this consultation.
- j. Commercial solar energy facility applicants shall provide the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor toll that is consistent with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines and any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.

- k. A facility owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission or consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.
- l. A facility owner shall provide evidence at the time of application submittal of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under applicable State law.
- m. A commercial solar energy facility owner shall plant, establish, and maintain for the life of the facility vegetative ground cover consistent with State law and the guidelines of the Illinois Department of Natural Resources' vegetative management plans. The vegetation management plan shall be required at the time of application submittal.
- n. The facility owner shall enter into a road use agreement with the jurisdiction having control over the applicable roads. The road use agreement shall follow applicable law. The facility owner shall supply the Kendall County Planning, Building and Zoning Department with a copy of the road use agreement. This provision shall be waived if the jurisdiction having control over the applicable roads does not wish to enter into an agreement.
- o. The facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial solar energy system within a reasonable time after construction of the commercial solar energy facility is complete. The specific time shall be set in the special use permit.

Add Commercial Wind Energy Facility and Test Wind Towers to the appropriate place alphabetically in the list of special uses subject to the following:

- a. The following conditions apply to all commercial wind energy facilities located outside the one point five (1.5) mile zoning jurisdiction of municipalities and within the one point five (1.5) mile zoning jurisdictions of municipalities under intergovernmental agreements with the County for zoning services. All commercial wind energy facilities located within one point five (1.5) miles of a municipality shall either annex to the municipality or obtain an annexation agreement with the municipality requiring the municipality's regulations to flow through the property, unless not required to do so by applicable law.
- b. The setbacks for wind towers as measured from the center of the base of the wind tower shall be as follows:

Occupied Community Buildings
Nonparticipating Residences

Two point one (2.1) times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure

Participating Residences	One point one (1.1) times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Boundary Lines of Participating Properties	None
Boundary Lines of Nonparticipating Properties	One point one (1.1) times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property
Public Road Rights-Of-Way	One point one (1.1) times the maximum blade tip height of the wind tower to the center point of the public road right-of-way
Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Homes or Outbuildings)	One point one (1.1) times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line
Overhead Utility Service Lines to Individual Houses or Outbuildings	None
Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands	Two point one (2.1) times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife or protected land

The above setbacks do not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.

A wind tower of a commercial wind energy facility shall be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions.

The above setback may be waived subject to written consent of the owner of each affected nonparticipating structure. This written consent shall be submitted at the time of application submittal.

- c. Sound limitations for wind towers in commercial win energy facilities shall follow the sound limitations established by the Illinois Pollution Control Board.
- d. The County shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy system or related financial assurances to be more restrictive than agricultural impact mitigation agreement set in State law. The amount of any decommissioning

payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by the agricultural impact mitigation agreement, minus the salvage value of the project. A copy of the agricultural impact mitigation agreement shall be submitted with the application materials.

- e. A vegetative screening shall be placed around the commercial wind energy facility.
- f. The commercial wind energy facility shall follow applicable federal regulations pertaining to blade tip height maximums.
- g. Commercial wind energy systems applicants shall provide the results and recommendations from consultations with the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool (EcoCat) or a comparable successor tool. The commercial wind energy system applicant shall adhere to the recommendations provided through this consultation.
- h. Commercial wind energy systems applicants shall provide the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor toll that is consistent with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines and any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.
- i. A facility owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission or consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.
- j. A facility owner shall provide evidence at the time of application submittal of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under applicable State law.
- k. The facility owner shall enter into a road use agreement with the jurisdiction having control over the applicable roads. The road use agreement shall follow applicable law. The facility owner shall supply the Kendall County Planning, Building and Zoning Department with a copy of the road use agreement. This provision shall be waived if the jurisdiction having control over the applicable roads does not wish to enter into an agreement.
- l. The facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial wind energy system within a reasonable time after construction of the commercial wind energy facility is complete. The specific time shall be set in the special use permit.

~~52. Solar Gardens subject to the provisions of Section 4:18.D.~~

~~53. Solar Farms subject to the provisions of Section 4:18.C.~~

~~57. Wind Farms, Commercial, subject to the following:~~

~~a. Location Guidelines—The following guidelines shall be considered in evaluating the appropriateness of proposed locations for Wind Farms and the proposed project components. The purpose of these guidelines is to assist decision-makers in uniformly analyzing the site-specific impacts of each proposed project and thereby arrive at consistent and balanced decisions.~~

~~i. Natural and Biological Resources—Wind Farms should not be located in areas that have a large potential for biological conflicts. Wind Farms should not be located in large impact areas such as wilderness study areas, areas of critical environmental concern, county and state parks, historic trails, and special management areas. Wind Farms should not significantly impact important wildlife habitat.~~

~~ii. Visual Impacts—Wind Farms should avoid those visual corridors that are designated by the County as essential view sheds or scenic areas. Essential view sheds or scenic areas are those areas designated in the County’s LRMP or in other locations determined by the County Board after analyzing the applicant’s wind farm visual simulations and considering public hearing comments. A Wind Farm project should maintain visual unity among clusters of turbines. To promote visual uniformity, the rotors, nacelles and towers of all turbines in an array should appear similar. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less, should be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, render the project economically infeasible or be hidden from public view. To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.~~

~~iii. Soil Erosion & Water Quality—Wind Farms should avoid erosion. Disturbance and construction on erodible slopes should be minimized. The number of improved roads and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turnouts are recommended. The number and size of staging areas and crane pad sites should be minimized.~~

~~iv. Historical, Cultural & Archeological Resources—Wind Farms should avoid sites with known sensitive historical, cultural or archeological resources.~~

~~v. Public Safety—Wind Farms shall be developed in a manner that utilizes sound engineering practices and considers public safety regarding the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.~~

~~b. Performance Standards—The following standards are to be achieved by each Wind Farm project without exception. Because they are standards, they are requirements of any Wind Farm project. The final decision on whether or not a particular standard is achieved by a Wind Farm project shall be made by the County Board after considering the recommendations of all advisory bodies.~~

~~i. Noise Management—The noise level caused by the operation of the project, measured at five (5) feet above ground level at the property line coincident with or outside the project boundary, shall not exceed 65 decibels (A-weighted) and shall not exceed 50 decibels (A-weighted) if it is determined that a pure tone noise is generated by the project. The level, however, may be exceeded during shortterm events such as utility outages and/or severe windstorms.~~

~~ii. Wind Farm Design: Wind Farms that are not designed in “accordance with proven good engineering practices” or not purchased from a national manufacturer with a proven track record shall be prohibited. Wind Farms designed with the following characteristics shall be deemed in “accordance with proven good engineering practices”:~~

~~1. at least 3 blades.~~

~~2. upwind rotor.~~

~~3. no furling, where “furling” means that the wind turbine is designed to limit its power output in high winds by changing the rotor’s plane of rotation to a plane that is not perpendicular to the prevailing wind direction.~~

~~4. tapered and twisted blades.~~

~~5. a well designed braking system.~~

~~iii. Visual Impacts—To provide visual order to a Wind Farm project, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground. Except during construction, reconstruction or removal, outdoor storage is not permitted within the project boundary except at locations that are screened from view. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers. Aircraft obstruction markings of the turbines by use of alternating red and white bands shall be prohibited. No Billboards, logos and advertising signs of any kind shall be located on the turbines.~~

~~iv. Soil Erosion & Water Quality—Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the Building Permit so as to minimize soil erosion and damage to existing vegetation. If vegetation is damaged during construction, in areas not occupied by the Wind Farms and related facilities and roads, it shall be restored after construction is complete. Disturbed areas shall be reseeded to the landowner’s or manager’s requirements. Dust control on the project site is required.~~

~~v. Setback—Individual wind turbines shall be set back from all property lines coincident with or outside of the project boundary a distance equal to 1.1 times the turbine hub height. Individual wind turbines shall be set back from all public roads a distance equal to at least 1.1 times the turbine hub height.~~

~~vi. Lighting—Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. Approval from the FAA stating that the turbines will not pose a hazard to aviation must be obtained prior to final recommendation by the Kendall County Regional Plan Commission. If lighting of turbines, or other structures, is required, “daytime white-nighttime red” shall be the only type of lighting allowed unless prohibited by law. All required lighting effects shall be in synchronization with each turbine located on the same or contiguous~~

~~zoning lot and under the same ownership of a single wind energy system organization. All turbines and towers shall be a shade of white in color. (Amended 2/16/2010)~~

~~c. Roads—All routes on either County or Township roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress need to be shown. The routing shall be subject to the approval of the Kendall County Highway Engineer in coordination with the Township Road Commissioner(s). The developer shall provide and complete a pre-construction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The developer shall provide a road repair plan to improve any and all damage, installation or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or a surety bond in amount and form approved by the highway official(s).~~

~~d. Fees—All applications for a Commercial Wind Farm shall be accompanied by a fee for a Commercial Wind Farm Special use in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, attorney's fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the ZBA, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings up to and including the County Board decision. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any and all additional costs incurred by the County in the completion of their review and recommendation of the special use. Costs in excess of the application fee deposit are required to be paid in full by the applicant prior to scheduling the matter for action by the County Board.~~

~~e. Removal of Defective Wind Energy Systems: Any wind energy system found to be unsafe by an authorized county official shall be repaired by the owner to meet federal, state and local safety standards or removed within sixty (60) days. If any wind energy system is not operated for a continuous period of 12 months, the county will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the county deems the timetable for corrective action as unreasonable, they must notify the operator and such operator shall remove the turbine within 120 days of receipt of notice from the county.~~

~~f. Decommissioning Plan: A Commercial Wind Farm shall submit a decommissioning plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment. Facility abandonment shall include the ceasing of operations for a period of not less than one (1) year. 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 the project life or facility abandonment. At the time of~~

~~decommissioning, an Alta Survey shall be submitted to the County. The decommissioning plan shall state how the facility will be decommissioned, a professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the 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:~~

~~i. 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.~~

~~ii. If the Applicant chooses an escrow agreement:~~

~~i. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and~~

~~ii. The County shall have access to the escrow account funds for the express purpose of completing decommissioning if decommissioning is not completed by the applicant within sixty (60) days of the end of the project life or facility abandonment.~~

~~iii. The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.~~

~~iv. 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 successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of excess, and to take all steps allowed to enforce said lien.~~

~~Financial provisions shall not be so onerous as to make Commercial Wind Farm projects unfeasible.~~

Renumber the list of special uses in the A-1 accordingly.

Section 7:01.E (Conditional Uses in A-1)

~~11. Small Wind Energy Systems subject to the conditions of Section 4:17~~

The list of conditional uses would be renumbered.

Section 8:02.C (Special Uses in the R-1, R-2, and R-3)

~~18. Solar Gardens subject to the provisions of Section 4:00 of the Kendall County Zoning Ordinance.~~

Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.

The list of special uses would be renumbered.

Section 8:02.B (Conditional Uses in R-1)

~~4. Small Wind Energy Systems subject to the conditions of Section 4:17~~

Section 8:03.G.2.d (Conditional Uses in the RPD-1, RPD-2, and RPD-3)

~~(vi) Small Wind Energy Systems subject to the conditions of Section 4:17~~

Section 8:03.H.1 (Special Uses in the RPD-1, RPD-2, and RPD-3)

~~o. Solar Gardens subject to the provisions of Section 4:00 of the Kendall County Zoning Ordinance.~~

Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.

The list of special uses would be renumbered.

Section 8:06.B (Special Uses in the R-2)

1. Any use permitted as a special use in the R-1 One-Family Estate Residence District, Section 8:02.C, **except Commercial Solar Energy Facilities, Test Solar Energy Facilities, Commercial Wind Energy Facilities, and Test Wind Towers**, and that Planned Developments may be considered where the zoning lot proposed for development has a gross area of not less than forty acres.

Section 8:06.C (Conditional Uses in the R-2)

~~4. Small Wind Energy Systems~~

Section 8:07.B (Special Uses in the R-3)

1. Any use permitted as a special use in the R-1 One-Family Estate Residence District, Section 8:02.C, except a bed and breakfast, **Commercial Solar Energy Facilities, Test Solar Energy Facilities, Commercial Wind Energy Facilities, and Test Wind Towers**, and that Planned Developments may be considered where the zoning lot proposed for development has a gross area of not less than forty acres.

Section 8:08.B (Special Uses in R-4, R-5, R-6, and R-7)

~~9. Solar Gardens — See Section 4:00~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:01.C (Special Uses in B-1)

~~13. Solar Gardens~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:01.D (Conditional Uses in B-1)

~~4. Small Wind Energy Systems (Amended 9/15/20).~~

Section 9:02.C (Special Uses in B-2)

~~24. Solar Gardens~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:02.D (Conditional Uses in B-2 and B-3)

~~9. Small Wind Energy Systems (Amended 9/15/20)~~

Section 9:03.C (Special Uses in B-3)

~~29. Solar Gardens~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:04.C (Special Uses in B-4)

~~18. Solar Gardens~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:04.D (Conditional Uses in B-4)

~~Small Wind Energy Systems only if specially authorized by the Zoning Administrator (Amended 9/15/20)~~

Reserved

Section 9:05.E (Special Uses in B-5)

~~7. Solar Gardens shall be a special use in the B-5 Business Planned Development District.~~

Section 9:06.C (Special Uses in B-6)

~~17. Solar Gardens~~

The list of special uses would be renumbered to reflect this deletion.

Section 9:06.D (Conditional Uses in B-6)

~~Small Wind Energy Systems only if specially authorized by the Zoning Administrator (Amended 9/15/20)~~

Reserved

Section 10:01.C. (Special Uses in M-1 and M-2)

~~30. Wind Farms, Commercial, subject to the conditions in Section 7:01.D (Amended 9/15/20).~~

Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.

The list of special uses would be renumbered.

Section 10:01.D (Conditional Uses in M-1)

~~Small Wind Energy Systems only if specially authorized by the Zoning Administrator (Amended 9/15/20)~~

Reserved

Section 10:02.D (Conditional Uses in M-2)

~~Small Wind Energy Systems only if specially authorized by the Zoning Administrator (Amended 9/15/20)~~

Reserved

Section 10:03.C (Special Uses in M-3)

~~5. Solar Gardens~~

~~Add Commercial Solar Energy Facilities and Test Solar Energy Systems Subject to the Conditions Contained in Section 7:01.D and Commercial Wind Energy Facilities and Test Wind Towers Subject to the Conditions in Section 7:01.D to the List of Special Uses in the Appropriate Places Alphabetically.~~

~~The list of special uses would be renumbered.~~

Section 10:03.D (Conditional Uses in M-1)

~~Small Wind Energy Systems only if specially authorized by the Zoning Administrator (Amended 9/15/20)~~

Reserved

Section 13:08.E. (Decisions on Special Use Permits)

- ~~4. In cases involving special use permit applications or applications for major amendments to existing special use permits for commercial solar energy facilities and commercial wind energy facilities, the County Board shall make its decision not more than thirty (30) days after the conclusion of the public hearing.~~

Appendix 9 (Table of Uses)

~~Add Commercial Solar Energy Facility and Test Solar Energy Systems as a special use to A-1, R-1, RPD-1, RPD-2, RPD-3, M-1, M-2, and M-3~~

~~Add Commercial Wind Energy Facility and Test Wind Towers as a special use to A-1, R-1, RPD-1, RPD-2, RPD-3, M-1, M-2, and M-3~~

~~Add Solar Energy System, Private as permitted uses in all zoning districts.~~

~~Change Small Wind Energy Systems to permitted uses in the A-1, R-1, RPD-1, RPD-2, RPD-3, R-2, B-1, B-2, B-3, B-4, B-5, B-6, M-1, M-2, M-3.~~

~~Add Small Wind Energy Systems as a Permitted Use in the R-3.~~

~~Delete Solar Farms, Solar Gardens, and Wind Farms, Commercial.~~

General

~~Citation Corrections caused by the amendments.~~

(55 ILCS 5/5-12020)

Sec. 5-12020. Commercial wind energy facilities and commercial solar energy facilities.

(a) As used in this Section:

"Commercial solar energy facility" means a "commercial solar energy system" as defined in Section 10-720 of the Property Tax Code. "Commercial solar energy facility" does not mean a utility-scale solar energy facility being constructed at a site that was eligible to participate in a procurement event conducted by the Illinois Power Agency pursuant to subsection (c-5) of Section 1-75 of the Illinois Power Agency Act.

"Commercial wind energy facility" means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial wind energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before the effective date of this amendatory Act of the 102nd General Assembly.

"Facility owner" means (i) a person with a direct ownership interest in a commercial wind energy facility or a commercial solar energy facility, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

"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 wind energy facility or the commercial solar energy facility is filed with the county.

"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 wind energy facility or the commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

"Participating property" 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 wind energy facility, a commercial solar energy facility, or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities.

"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 wind energy facility or the commercial

solar energy facility is filed with the county.

"Protected lands" means real property that is:

(1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or

(2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

"Supporting facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility or commercial solar energy facility.

"Wind tower" includes the wind turbine tower, nacelle, and blades.

(b) Notwithstanding any other provision of law or whether the county has formed a zoning commission and adopted formal zoning under Section 5-12007, a county may establish standards for commercial wind energy facilities, commercial solar energy facilities, or both. The standards may include all of the requirements specified in this Section but may not include requirements for commercial wind energy facilities or commercial solar energy facilities that are more restrictive than specified in this Section. A county may also regulate the siting of commercial wind energy facilities with standards that are not more restrictive than the requirements specified in this Section in unincorporated areas of the county that are outside the zoning jurisdiction of a municipality and that are outside the 1.5-mile radius surrounding the zoning jurisdiction of a municipality.

(c) If a county has elected to establish standards under subsection (b), before the county grants siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an approved siting or special use permit, the county board of the county in which the facility is to be sited or the zoning board of appeals for the county shall hold at least one public hearing. The public hearing shall be conducted in accordance with the Open Meetings Act and shall be held not more than 45 days after the filing of the application for the facility. The county shall allow interested parties to a special use permit an opportunity to present evidence and to cross-examine witnesses at the hearing, but the county may impose reasonable restrictions on the public hearing, including reasonable time limitations on the presentation of evidence and the cross-examination of witnesses. The county shall also allow public comment at the public hearing in accordance with the Open Meetings Act. The county shall make its siting and permitting decisions not more than 30 days after the conclusion of the public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the county. A facility owner must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a county prior to July 24, 2015 (the effective date of Public Act 99-132) must enter into an agricultural impact mitigation

agreement with the Department of Agriculture prior to a decision by the county to grant the permit extension. Counties may allow test wind towers or test solar energy systems to be sited without formal approval by the county board.

(d) A county with an existing zoning ordinance in conflict with this Section shall amend that zoning ordinance to be in compliance with this Section within 120 days after the effective date of this amendatory Act of the 102nd General Assembly.

(e) A county may require:

(1) a wind tower of a commercial wind energy facility to be sited as follows, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied Community Buildings	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Participating Residences	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Nonparticipating Residences	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Boundary Lines of Nonparticipating Property	1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property
Public Road Rights-of-Way	1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way
Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings)	1.1 times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right of way containing the overhead line
Overhead Utility Service	None

Lines to Individual
Houses or Outbuildings

Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands 2.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife area or protected land

This Section does not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, The National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.

(2) a wind tower of a commercial wind energy facility to be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions;

(3) a commercial solar energy facility to be sited as follows, with setback distances measured from the nearest edge of any component of the facility:

Setback Description	Setback Distance
Occupied Community Buildings and Dwellings on Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Public Road Rights-of-Way	50 feet from the nearest edge
Boundary Lines of Nonparticipating Property	50 feet to the nearest point on the property line of the nonparticipating property

(4) a commercial solar energy facility to be sited so that the facility's perimeter is enclosed by fencing having a height of at least 6 feet and no more than 25 feet; and

(5) a commercial solar energy facility to be sited so that no component of a solar panel has a height of more than 20 feet above ground when the solar energy facility's arrays are at full tilt.

The requirements set forth in this subsection (e) may be waived subject to the written consent of the owner of each affected nonparticipating property.

(f) A county may not set a sound limitation for wind towers in commercial wind energy facilities or any components in commercial solar energy facility that is more restrictive than the sound limitations established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910.

(g) A county may not place any restriction on the installation or use of a commercial wind energy facility or a commercial solar energy facility unless it adopts an ordinance that complies with this Section. A county may not establish siting standards for supporting facilities that preclude development of commercial wind energy facilities or commercial solar energy facilities.

A request for siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an approved siting or special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in this Act, the zoning ordinance adopted consistent with this Code, and the conditions imposed under State and federal statutes and regulations.

(h) A county may not adopt zoning regulations that disallow, permanently or temporarily, commercial wind energy facilities or commercial solar energy facilities from being developed or operated in any district zoned to allow agricultural or industrial uses.

(i) A county may not require permit application fees for a commercial wind energy facility or commercial solar energy facility that are unreasonable. All application fees imposed by the county shall be consistent with fees for projects in the county with similar capital value and cost.

(j) Except as otherwise provided in this Section, a county shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy facility or commercial solar energy facility or related financial assurances that are more restrictive than those included in the Department of Agriculture's standard wind farm agricultural impact mitigation agreement, template 81818, or standard solar agricultural impact mitigation agreement, version 8.19.19, as applicable and in effect on December 31, 2022. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by those agricultural impact mitigation agreements, minus the salvage value of the project.

(k) A county may not condition approval of a commercial wind energy facility or commercial solar energy facility on a property value guarantee and may not require a facility owner to pay into a neighboring property devaluation escrow account.

(l) A county may require certain vegetative screening surrounding a commercial wind energy facility or commercial solar energy facility but may not require earthen berms or similar structures.

(m) A county may set blade tip height limitations for wind towers in commercial wind energy facilities but may not set a blade tip height limitation that is more restrictive than the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR

Part 77.

(n) A county may require that a commercial wind energy facility owner or commercial solar energy facility owner provide:

(1) the results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool; and

(2) the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with (i) the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines" and (ii) any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.

(o) A county may require a commercial wind energy facility or commercial solar energy facility to adhere to the recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report under 17 Ill. Admin. Code Part 1075.

(p) A county may require a facility owner to:

(1) demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or

(2) consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

(q) A county may require that a facility owner provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

(r) To maximize community benefits, including, but not limited to, reduced stormwater runoff, flooding, and erosion at the ground mounted solar energy system, improved soil health, and increased foraging habitat for game birds, songbirds, and pollinators, a county may (1) require a commercial solar energy facility owner to plant, establish, and maintain for the life of the facility vegetative ground cover, consistent with the goals of the Pollinator-Friendly Solar Site Act and (2) require the submittal of a vegetation management plan in the application to construct and operate a commercial solar energy facility in the county.

No later than 90 days after the effective date of this amendatory Act of the 102nd General Assembly, the Illinois Department of Natural Resources shall develop guidelines for vegetation management plans that may be required under this subsection for commercial solar energy facilities. The guidelines must include guidance for short-term and long-term property management practices that provide and maintain native and non-invasive naturalized perennial vegetation to protect the health and well-being of pollinators.

(s) If a facility owner enters into a road use agreement with the Illinois Department of Transportation, a road district, or other unit of local government relating to a

commercial wind energy facility or a commercial solar energy facility, the road use agreement shall require the facility owner to be responsible for (i) the reasonable cost of improving roads used by the facility owner to construct the commercial wind energy facility or the commercial solar energy facility and (ii) the reasonable cost of repairing roads used by the facility owner during construction of the commercial wind energy facility or the commercial solar energy facility so that those roads are in a condition that is safe for the driving public after the completion of the facility's construction. Roadways improved in preparation for and during the construction of the commercial wind energy facility or commercial 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.

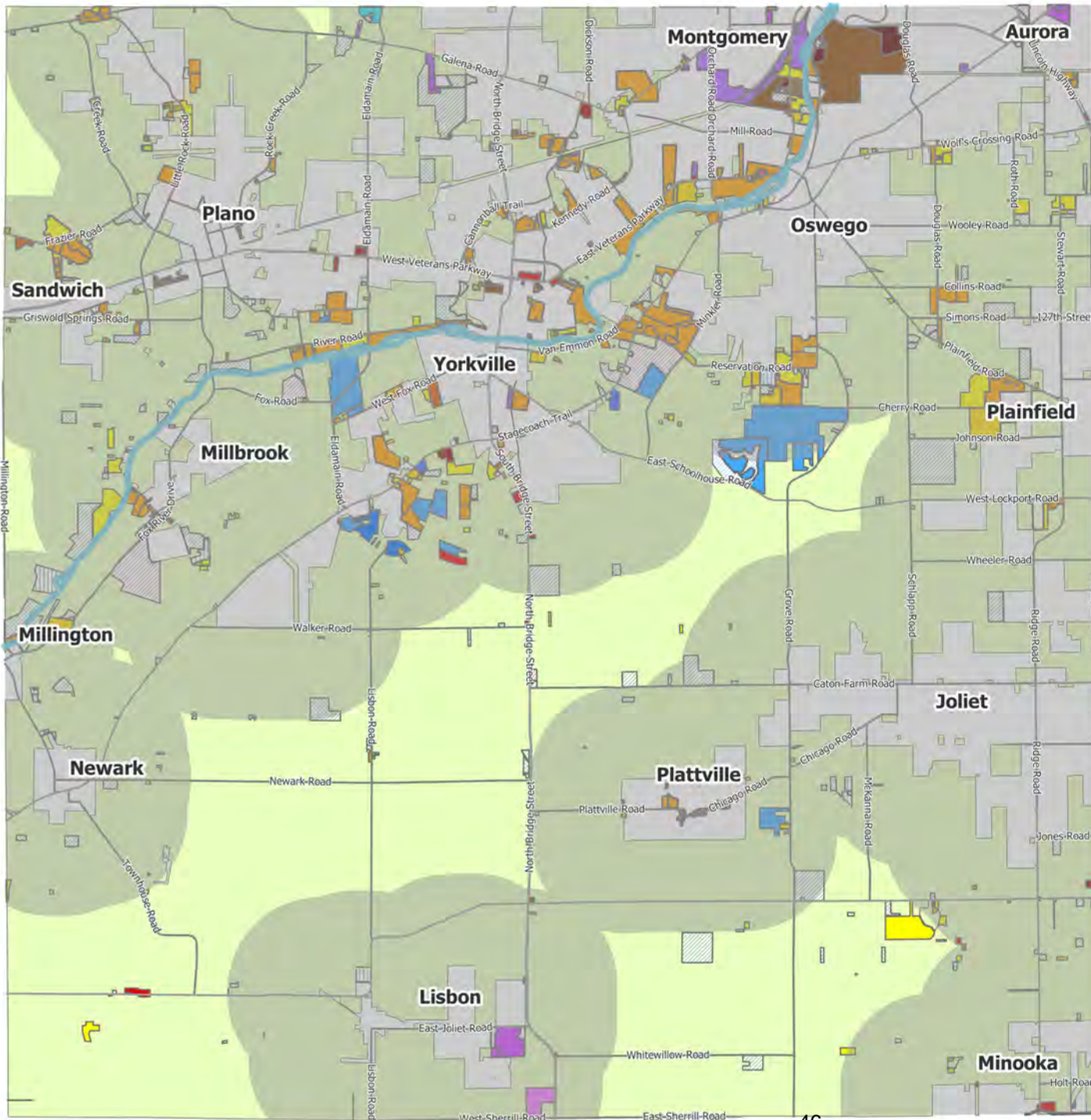
The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. Road-related fees, permit fees, or other charges imposed by the Illinois Department of Transportation, a road district, or other unit of local government under a road use agreement with the facility owner shall be reasonably related to the cost of administration of the road use agreement.

(t) Notwithstanding any other provision of law, a facility owner with siting approval from a county to construct a commercial wind energy facility or a commercial solar energy facility is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage districts, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code without obtaining prior agreement or approval from the drainage district, except that the facility owner shall repair or pay for the repair of all damage to the drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility within a reasonable time after construction of the commercial wind energy facility or the commercial solar energy facility is complete.

(u) The amendments to this Section adopted in this amendatory Act of the 102nd General Assembly do not apply to (1) an application for siting approval or for a special use permit for a commercial wind energy facility or commercial solar energy facility if the application was submitted to a unit of local government before the effective date of this amendatory Act of the 102nd General Assembly or (2) a commercial wind energy facility or a commercial solar energy facility if the facility owner has submitted an agricultural impact mitigation agreement to the Department of Agriculture before the effective date of this amendatory Act of the 102nd General Assembly.

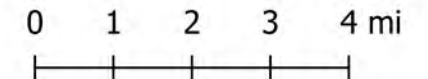
(Source: P.A. 101-4, eff. 4-19-19; 102-1123, eff. 1-27-23.)

1.5 Mile Municipality Radius



Zoning

 A1	 R2
 A1-BP	 R2-PUD
 A1-SU	 R2-R3
 A1-SU-PUD	 R2-SU-PUD
 B1	 R3
 B1-SU	 R3-PUD
 B2	 R3-SU
 B2-SU	 R3-SU-PUD
 B3	 R4
 B3-SU	 R5
 B4	 R6
 M1	 R7
 M1-SU	 R7-SU
 M2	 RPD-1
 M2-SU	 RPD-1-SU
 M3	 RPD-2
 M3-SU	 RPD-2-SU
 R1	 RPD-3
 R1-PUD	 COURT ORDERED MINING
 R1-SU	



Kendall County GIS
 (630) 553-4212
 111 W Fox St
 Yorkville, IL 60560



**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
February 28, 2023 – Unapproved Meeting Minutes**

PBZ Chairman Seth Wormley called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
David Guritz – Forest Preserve
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Commander Jason Langston – Sheriff’s Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department
Seth Wormley – PBZ Committee Chair

Absent:

Greg Chismark – WBK Engineering, LLC

Audience:

Doug Westphal

PETITIONS

Petitions 23-12 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

In January 2023, the Illinois General Assembly approved and the Governor signed House Bill 4412 pertaining to commercial wind and solar energy systems. The new law requires that the County update its solar and wind regulations by May 27, 2023, in order to be able to have regulations governing commercial solar energy facilities and commercial wind energy facilities.

The proposed amendments were provided.

General proposed changes are as follows:

1. Various definitions related to solar and wind energy facilities are proposed to be amended, added, and deleted. Many terms are defined in State law and were referenced as such. The definitions of solar farm and solar gardens were removed. The definitions of solar energy system, private and wind energy system, small were adjusted to reflect State law. Onsite consumption would include energy generated within a subdivision, planned development, or business park and consumed within the development.
2. Small wind energy systems would become permitted accessory uses. They would be added to the list of uses in the R-3 in addition to their existing allowance in the A-1, R-1, R-2, RPD, Business, and Manufacturing Districts. Solar energy system, private would become permitted uses in all zoning districts.
3. Commercial solar energy facilities, test solar energy systems, commercial energy wind facilities and test wind towers would become special uses in the A-1, R-1, RPD Districts, and Manufacturing Districts.
4. Adding a statement that the regulations do not apply to commercial wind energy facilities within one point five (1.5) miles of a municipality, unless the County has an Intergovernmental Agreement with the municipality to provide zoning services to the municipality. Staff added a requirement that solar and wind energy facilities within one point five (1.5) miles of a municipality must either annex to the municipality or enter into a pre-annexation agreement with the municipality using the Chatham annexation rules.
5. Add a requirement that the County Board shall make its decision on the application not more than thirty (30) days after the conclusion of the public hearing.

6. As proposed, the new setbacks would follow State law.
7. As proposed changes in setbacks, certain height requirements for solar, and fencing requirements would be allowed if nonparticipating property owners consent to these requirements. As proposed, the changes would be allowed to occur if documentation was provided at the time of application submittal.
8. As proposed, sound regulations would follow State law.
9. As proposed, agricultural impact mitigation agreements have to be submitted with the application.
10. The County's landscaping requirements were adjusted to reflect the law.
11. Statements requiring compliance with EcoCat reports, Fish and Wildlife Service reports, and Illinois State Historic Preservation consultations were added to the Zoning Ordinance.
12. Statements regarding road use agreements were adjusted to reflect the law.
13. Language was added related to the enforcement of damaged drain systems.

The new law was also provided.

A map showing the one point five mile (1.5) planning boundaries was also provided.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

Mr. Guritz asked how the municipalities felt about requiring these types of projects to annex into a municipality. Mr. Asselmeier responded that the municipalities have been notified of the proposal and none of the municipalities have expressed favor or opposition regarding the proposal. Mr. Asselmeier noted that municipalities would have more control and an issue would arise if a property owner or developer could not come to an agreement with a municipality. A municipality could enter into an annexation agreement and not require the property to be annexed.

Mr. Guritz asked if renewable energy projects on Forest Preserve property would cause that property to be annexed to a municipality. Mr. Asselmeier responded that, if the Forest Preserve is operating within the confines of the Downstate Forest Preserve Act, then the property would be exempt from County zoning.

Discussion occurred about repairing roads as part of wind projects.

Chairman Wormley asked why a county would not have regulations. Mr. Asselmeier responded that, if a proposal meets all of the requirements of State law, a county must approve the project, regardless of the information provided at zoning hearing. Rather than obtain comments that cannot be incorporated into a project or giving residents unfounded hope that a project might be altered or denied, a county might choose to opt out of having unproductive hearings, and simply permit a project.

Mr. Klaas asked if there was any precedence about the State taking away a county's ability to zone. Mr. Asselmeier responded that the Garden Act, Agricultural Experiences Act, and the agricultural exemptions were examples of the State taking away a county's ability to zone. Discussion occurred regarding how the State adopted the law.

Mr. Klaas asked if the State's Attorney's Office has been involved with this proposal or to see if there were ways to get the State law changed. Mr. Asselmeier responded no.

Mr. Guritz made a motion, seconded by Mr. Klaas, to issue a neutral recommendation.

The votes were follows:

Ayes (9):	Asselmeier, Briganti, Guritz, Holdiman, Klaas, Langston, Olson, Rybski, and Wormley
Nays (0):	None
Abstain (0):	None
Absent (1):	Chismark

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on March 22, 2023.

PUBLIC COMMENT

Doug Westphal expressed concerns about townships maintaining their roads when large renewable energy projects occur. Mr. Asselmeier noted the road use agreement requirement in the law.

ADJOURNMENT

Mr. Guritz made a motion, seconded by Mr. Klaas, to adjourn.

With a voice vote of nine (9) ayes, the motion carried.

The ZPAC, at 9:54 a.m., adjourned.

Respectfully Submitted,
Matthew H. Asselmeier, AICP, CFM
Senior Planner



DEPARTMENT OF PLANNING, BUILDING & ZONING

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MEMORANDUM

To: Kendall County Regional Planning Commission
From: Matthew H. Asselmeier, AICP, CFM, Senior Planner
Date: March 16, 2023
Re: Proposed Amendments Related to Kennels (Petition 23-13)

In response to the special use permit amendments for the kennel at the northeast corner of Ridge and Bell Roads, Staff prepared the following proposed amendments to kennel regulations.

In summary, the proposed changes are as follows:

1. Allow pets outdoors until 10:00 p.m. for the purposes of allowing owners to pick-up and drop-off pets and to allow for normal bathroom breaks.
2. Establish uniform kennel regulations throughout the County.
3. Minor text alterations.

Redlined versions of the proposed changes are attached.

As of the date of this memo, there are six (6) active special use permits for kennels in the unincorporated area.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

The proposals were emailed to the townships on February 23, 2023.

ZPAC met on the proposals on February 28, 2023. ZPAC recommended approval of the proposal by a vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes of meeting are attached.

If you have any questions regarding this memo, please let me know.

MHA

Enc. Redlined Proposal
February 28, 2023 ZPAC Minutes (This Petition Only)

Kennel Regulations

Amend Section 7:01.D

29. Kennels provided that the kennels must be located inside and must be located a minimum of **two hundred fifty feet (250')** from the lot line of lots zoned residential or shown as Residential on the LRMP map and **one hundred fifty feet (150')** from lots zoned other than residential or shown on the LRMP map as non-residential. The animals must be indoors by sunset, **except for the purposes of owners picking-up and dropping-off pets and regular bathroom breaks until 10:00 p.m.**

Amend Section 9:03.C

14. Kennels **with the conditions contained in Section 7:01.D.** ~~with the condition that the kennels must be located inside and must be located a minimum of 250' from the lot line of lots zoned residential or shown as Residential on the LRMP map and 150' from lots zoned other than residential or shown on the LRMP map as non-residential. The animals must be indoors by sunset.~~

Amend Section 9:04.C

10. Kennels **with the conditions contained in Section 7:01.D.** ~~when located more than 600' from any occupied residential structure other than the owners residence~~

The M-1 and M-2 Districts already reference Section 7:01.D.

Kennels are special uses in the A-1, B-3, B-4, M-1, and M-2 Zoning Districts.

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
February 28, 2023 – Unapproved Meeting Minutes**

PBZ Chairman Seth Wormley called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
David Guritz – Forest Preserve
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Commander Jason Langston – Sheriff’s Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department
Seth Wormley – PBZ Committee Chair

Absent:

Greg Chismark – WBK Engineering, LLC

Audience:

Doug Westphal

PETITIONS

Petitions 23-13 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

In response to the special use permit amendments for the kennel at the northeast corner of Ridge and Bell Roads, Staff prepared the following proposed amendments to kennel regulations.

In summary, the proposed changes are as follows:

1. Allow pets outdoors until 10:00 p.m. for the purposes of allowing owners to pick-up and drop-off pets and to allow for normal bathroom breaks.
2. Establish uniform kennel regulations throughout the County.
3. Minor text alterations.

Redlined versions of the proposed changes were provided.

As of the date of this memo, there are six (6) active special use permits for kennels in the unincorporated area.

At their meeting on February 9, 2023, the Kendall County Planning, Building and Zoning Committee voted to initiate these amendments.

Mr. Rybski made a motion, seconded by Commander Langston, to recommend approval of the proposal.

The votes were follows:

Ayes (9): Asselmeier, Briganti, Guritz, Holdiman, Klaas, Langston, Olson, Rybski, and Wormley
Nays (0): None
Abstain (0): None
Absent (1): Chismark

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on March 22, 2023.

PUBLIC COMMENT

Doug Westphal expressed concerns about townships maintaining their roads when large renewable energy projects occur. Mr. Asselmeier noted the road use agreement requirement in the law.

ADJOURNMENT

Mr. Guritz made a motion, seconded by Mr. Klaas, to adjourn.

With a voice vote of nine (9) ayes, the motion carried.

The ZPAC, at 9:54 a.m., adjourned.

Respectfully Submitted,
Matthew H. Asselmeier, AICP, CFM
Senior Planner