

Section 15
SPECIAL USES

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15.01 PURPOSE

The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the City. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various district's established by this Zoning Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public. These "special uses" require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community. The conditions controlling the location and operation of such "special uses" are established by the following provisions of this Section 15.

15.02 GENERAL REQUIREMENTS

The general requirements of the specific zoning district in which the requested use will be located are applicable except where specifically modified by a special use permit. All conditions and requirements, as determined by the City Council and based on recommendations of the Planning and Zoning Commission and City staff, shall be considered as additions to the general requirements as found in this Zoning Code. The special use permit shall include the approved specific conditions required to address circumstances unique to the proposed use.

15.03 STANDARDS FOR SPECIAL USES

The City Council may authorize a special use permit as provided herein upon determining and finding as fact, the following:

1. That the proposed use will not be detrimental to the public health, safety, comfort or general welfare, nor substantially diminish or impair the value of other properties or improvements in the vicinity.

2. That the proposed use will comply with the regulations of the zoning district in which it is located and this Zoning Code generally, including, but not limited to all applicable yard and bulk regulations, parking and loading regulations, sign control regulations, wetlands and flood plain regulations, building and fire codes, and all other applicable City ordinances, or if exceptions are requested, that such exceptions are justified.
3. That the proposed use will not negatively impact the existing off-site traffic circulation; will adequately address on-site traffic circulation; will provide adequate on-site parking facilities; and if appropriate or required, will contribute financially, in proportion to its impact, to upgrading roadway systems.
4. That the proposed use will not negatively impact existing public utilities, facilities and municipal service delivery systems without due consideration for adequate means of upgrading such utilities, facilities and systems.
5. That the proposed use will not negatively impact the environment by creating air, noise or water pollution, ground contamination, or unsightly view's without due consideration for adequate means of controlling, mitigating or buffering such impacts.
6. That the proposed use will maintain, where possible, existing mature vegetation; provide adequate screening to residential properties; and provide appropriate landscaping.
7. That the proposed use will meet standards and requirements established by jurisdictions other than the City, such as federal, state, county or other governmental units or agencies requiring licensing, permitting or health/safety inspections, and submit written evidence thereof.
8. That the proposed use shall conform to the regulations established for specific special uses as provided in this Section 15.

15.04 MOTOR VEHICLE SPECIAL USES

Motor vehicle sales and services, parking; used car sales; and sales and service of agriculture implements shall be a special use in any business district. Before a Certificate of Zoning Compliance is issued for any sales and/or used motor vehicle car sales lot special use, the following requirements must be met:

1. The applicant shall demonstrate that the proposed use is economically compatible with existing uses.
2. The special use will not injure surrounding property values.
3. Lighting sources shall be directed away from surrounding properties.
4. Display area shall have a paved surface.

In the event that an sales and/or used motor vehicle sales lot is proposed to be established on a

previously improved zoning lot where no Certificate of Zoning Compliance was required, the requirements of this Section 15.04 must be met prior to the issuance of any occupancy permit for such use.

15.05 MOTOR VEHICLE SERVICE STATION

Motor vehicle service station shall be a special use subject to the following:

1. All gasoline pumps and other service facilities shall be located at least 25 feet from any street right-of-way line, side lot line or rear lot line.

2. Every access way shall be located at least 200 feet from the principal building of any fire station, school, public library and church at least 30 feet from the corner of the lot when the lot is at the intersection of public streets.

3. All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

4. Whenever the use of a service station has been discontinued for 12 consecutive months or for 18 months during any three-year period, the Zoning Administrator shall order that all underground storage tanks be removed or filled with material approved by the fire chief.

5. Auto repair stations:

a. All body shop repairs to motor vehicles shall be conducted wholly within an enclosed building whose doors shall be kept shut tightly during all body repairs or painting work. Such enclosed building shall be located at least 40 feet from the nearest property line with doors not facing toward any residentially zoned or occupied lot.

b. There shall be no outside parking of motor vehicles except on a temporary basis not to exceed 14 days. Junk parts and junk vehicles shall not be kept outside the building unless in an enclosed privacy fence. This fence must meet all City fence requirements.

c. Parking shall be provided on the site at a ratio of one parking space for each 3,000 square feet of site area.

15.06 KENNEL SPECIAL USE

A kennel is considered a special use subject to the following:

1. The lot on which the kennel is situated shall have a minimum of three acres.

2. Every kennel shall be located at least 200 feet from the nearest dwelling and not less than 100 feet from any lot line.

15.07 REST HOMES, NURSING HOMES

Rest home and nursing home are a special use in any use district provided that when located in a business district such uses shall be established above the first floor when located in a building constructed for a business use. A building originally constructed for residential use in a business district may be used in whole or in part for rest homes or nursing homes.

15.08 GROUP HOMES

Group home is a special use in any residential zoning district that is licensed or certified by the State of Illinois, supervised and has 9 or more persons plus staff, subject to the following:

1. A minimum distance of 1,000 feet is maintained between group homes;
2. The group home conforms to all current provisions of the Zoning Code, City building code and State of Illinois licensing standards, if applicable to the use. Said conditions may be waived by the City Council.

15.09 EARTH MATERIALS EXTRACTION, PROCESSING, SITE RECLAMATION, AND RELATED OPERATIONS

A. Definitions: In addition to the definitions in Section 3 herein, terms (whether capitalized or not) used in this Section 15.09 shall have the following meanings:

Concrete building materials production plant: A facility that incorporates machinery and earth materials to produce cement or concrete-based products used in the construction of structures or in the building and landscaping industry for marketing and sale.

Concrete recycling plant: A facility that incorporates machinery and a supply of used concrete, cement products and debris to crush and process such materials into raw products to be utilized for sale or incorporation into other products. The term “concrete” herein specifically excludes bituminous concrete, also known as asphalt.

Earth materials extraction: The mining of any natural earth materials or minerals, such as gravel, sand, stone, clay or aggregate by removing the overburden lying above natural deposits thereof and mining directly from natural deposits thereby exposed, or from the deposition of overburden therefrom. The term “ surface mining” shall be deemed synonymous with “ earth materials extraction.”

Earth materials processing: The transporting, washing, sorting, screening, grading, crushing and similar processing of natural earth materials or minerals, such as gravel, sand or aggregate, in order to prepare such materials for marketing, sale or incorporation into other earth materials based products.

Ready-mix plant: A facility used for the dispensing of cement, water, stone and sand into mixer trucks in order to create liquid concrete products to be transported off-site for use in construction of concrete structures and products.

B. Intent: The purpose of this Section 15.09 is to recognize that earth materials extraction and processing and related operations, such as ready-mix plants, concrete recycling plants and concrete building materials production plants, as well as the associated exterior storage of raw and recyclable materials, are uses requiring unique regulatory controls to ensure that :

1. Operations are conducted in a manner that are compatible with the natural and manmade environment;
2. Adverse impacts on surrounding areas, including, without limitation, property values, air quality and noise are minimized; and
3. Mined areas are restored to productive use compatible with the surrounding areas. It is the further purpose of this Section 15.09 to:
 4. Establish regulations and standards for earth materials extraction and processing, ready-mix plants, concrete recycling plants and concrete building materials production plants; the storage and stockpiling of associated raw and recyclable materials; and the trucking and other related operations pertaining to these activities; and
 5. Provide for the conservation and reclamation of lands affected by earth materials extraction, processing and related operations in order to restore them to optimum future productive use consistent with the protection of public health and the environment. Therefore, earth materials extraction and processing, and the operation of ready-mix plants, concrete recycling plants, and concrete building materials production plants shall only be permitted on a special use basis.

C. Applicable Zoning Districts and Operations: In M-Manufacturing Districts only, an operator desiring to extract and/or process earth materials shall apply for a special use permit jointly with the owner or any person who is entitled to legal possession of the property to be affected and shall comply with the operation and reclamation regulations in this Section 15.09.

D. Compliance with State and Federal Regulations: It shall be unlawful for any owner/operator to engage in surface mining in an area where the overburden shall exceed 10 feet in depth or where the operation will affect more than 10 acres during the permit year without first obtaining from the Illinois Department of Mines and Minerals a permit to do so, pursuant to the Surface-Mined Land Conservation and Reclamation Act, 225 ILCS 715/1 *et seq.*, as amended. All owner/operators shall comply with the regulations of the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Illinois Environmental Protection Agency, and any other applicable state or federal laws or regulations, including, but not limited to, occupational health and safety. Any necessary permits shall be obtained prior to issuance of the special use permit . Before the onset of any operations, the City Administrator must be provided with copies of all necessary permits. Such permits must be kept valid and in force for the special use permit to be valid and in force.

E. Application for special use permit: All owner/operators shall apply for a special use permit. In addition to the other requirements of this Section 16, the owner/operator shall present the

statements, maps and plans required in Sections 15.09-F and 15.09-G herein. Review and approval of the special use permit and any terms and conditions imposed upon and included with said special use permit shall take into account the materials provided in Sections 15.09-F and 15.09-G herein.

F. Statements: The following statements shall accompany an application for a special use permit:

1. Ownership of land.
2. Minerals to be mined.
3. Character and composition of vegetation and wildlife on land to be affected.
4. The nature, depth and proposed disposition of the overburden.
5. The estimated depth to which the mineral deposit will be mined.
6. Estimated type and volume of excavation.
7. The techniques and equipment proposed to be used, as applicable, for:
 - a. earth materials extraction;
 - b. earth materials processing;
 - c. ready-mix plant;
 - d. concrete recycling plant; and
 - e. concrete building materials production plant.
8. Practices and methods proposed to be used to minimize noise, dust, air contaminants and vibration and to prevent pollution of surface or underground water.
9. The method of recycling water used for washing and grading.
10. The proposed usage or drainage of excess water.
11. Location of existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining.
12. Location and names of all streams, creeks and bodies of water within lands to be affected.

13. Drainage on and away from the lands to be affected, including directional flow of water, natural and artificial drainways and waterways, and streams or tributaries receiving the discharge.

14. Proposed days and hours of operation of all excavation, processing and operations on the property.

15. Projected dates of commencement and completion of all excavation, processing and operations on the property.

G. Maps and Plans: The following maps and plans, which shall constitute the Operations Plan, shall accompany an application for a special use permit:

1. A map or maps (scale of 1" = 100') showing the following:

a. Existing topography at 2' contour intervals.

b. Location of existing water courses or drainage systems.

c. Location and extent of flood hazard areas.

d. Boundaries of the area to be excavated and of each phase if excavation is to proceed or be contemplated to proceed in phases.

e. Locations of proposed and existing structures, equipment and material storage areas and processing areas.

f. Existing or proposed locations of equipment used for grading, crushing, sorting and other related purposes.

g. Location, orientation and dimensions of all proposed landscaping, berming, screening, fencing and gates.

h. Location, dimensions and surface treatment of proposed entrance and exit drive(s), on-site haul roads and parking areas.

i. Access routes between the property and nearest arterial street designated on the City's comprehensive plan.

j. Location, width and grade of all right-of-ways or easements on or abutting the property.

k. Cross-sections showing extent of overburden, extent of deposit's to be extracted and water table.

l. North arrow, scale, date of preparation, name of registered civil engineer,

landscape architect or surveyor that prepared the map.

m. Existing or proposed location of ground water monitoring well(s).

2. A Reclamation Plan meeting the following requirements:

a. Map (scale of 1" = 100') showing the final condition of the site after extraction and processing activities have been completed.

b. Locations of proposed water courses, water features and drainage systems.

c. Future structures, land uses, roadways and open spaces.

d. Staged schedule of reclamation actions by area detailing dates of completion and reclamation methods.

e. Future landscaping and ground cover.

f. Final grading.

3. All approvals of special use permits for earth materials extraction and processing shall expire 10 years from the date they are approved by the City Council, unless a longer time is approved by the City Council. The maximum allowable time limit will be 20 years. The City Administrator or his designee will be responsible for monitoring the operation throughout the life of the operation and special use.

H. Renewal of a Special Use Permit: A renewal of a special use under this Section 15.09 shall be for a period of time not more than 10 years.

1. A request to renew a special use permit that involves acreage or equipment in addition to that allowed in the original special use permit , shall be treated in the same manner as the initial application.

2. A request to renew a special use permit when no additional acreage or equipment will be brought into use shall be handled in the following manner:

If an owner/operator is unable to finish mining the acreage described in the original special use permit in the time specified, he shall apply to the Zoning Council of Appeals for renewal of the special use permit. A public hearing will be held. The maps required by this Section 15.09 for the initial hearing shall be revised, updated and resubmitted, along with a statement of the current status of the mining reclamation. Any application for a renewal of a special use under this Section 15.09 shall be filed with the Commission not less than 120 days before the expiration date of the original special use permit or any renewal thereof. A failure to file a request for renewal within the required time designated in this Section 15.09 shall result in a required cessation of mining and sale of product upon the expiration of the special use permit.

I. Surety: All owner/operators shall be required to obtain the proper permits and submit an acceptable irrevocable letter of credit to ensure the completion of the reclamation of the site. If any form of surety is required by the state, the owner/operator shall only be required to provide the City Administrator with a photocopy. A letter of credit will be required by the City of not less than \$3,500.00 for each acre to be affected. The actual dollar amount will be established by the City Administrator based upon 150 percent of the City Engineer's estimate of the cost of reclamation per acre average at the time mining is to be performed. This estimate shall take into consideration inflation of costs in future years. The actual operation shall be monitored by the City Administrator, or his designee, and he/she shall prepare a written report for review by the City Council on the progress before partial or full release or reduction of the letter of credit. The surety shall be held by the City. Such surety shall remain in effect until the affected lands have been reclaimed in accordance with the Reclamation Plan, and the work is approved by the City Administrator at the annual review of the operation (see Section 15.09-N herein). Land shall not be mined unless a surety for that land has been filed with the City. The surety shall be approved by the City Attorney. The surety shall be for assurance of completion of reclamation, and the initial surety amount shall be set on an anticipated three years working basis with reasonable allowance for inflation of costs. Before the end of each one-year period, the City Administrator's evaluation and the approval of the past year's work shall be required for release of or reduction of the letter of credit amount, and at that time, the surety level shall be established for the next one-year period or fraction thereof. Decisions of the City Administrator relative to any aspect of this Section 15.09-I are appealable to the City Council, whose decision is final.

J. Reclamation Regulations; The Reclamation Plan map and statement of sequential operation and reclamation shall be followed to produce a finished condition that complies with the Reclamation Plan map and the provisions of this Section 15.09 so as to provide for the return to a useful purpose of the affected land.

K. Changing the Reclamation Plan: In the event a change in the Reclamation Plan is necessary due to the unanticipated characteristics of the area concerned, the City Administrator, after being provided with appropriate documentation, shall study the proposed change, and give a report to the City Council for its review. Changes may be made in the Reclamation Plan upon the mutual consent of the owner/operator and the City Administrator and approval by the City Council. The change shall preserve as substantially as possible the original Reclamation Plan, but shall also provide for the previously unknown variables.

L. Finished Conditions: The finished conditions of all land affected by surface mining shall:

1. Be back-filled with earth or other suitable fill material approved by the City and graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than 15 percent grade. In the case of those lands to be reclaimed in accordance with the filed plan for forest plantations, recreation or wildlife, the final cut spoil, the outside slope of the box cut spoil, the outside slopes of all overburden deposition area, and the side slopes of haulage road inclines shall not exceed 30 percent grade; but such slopes need not be reduced to less than the original grade of the overburden of the area prior to mining;

2. Be designed to control conditions that could cause erosion on the site or on surrounding streets or properties;
3. Be designed to eliminate large undrained depressions other than artificial lakes, or depositions designed specifically for erosion control;
4. Be designed so that any surface drainage from the property shall leave the property at the original natural drainage points. If this is not possible, the drainage plans must be reviewed by the City Engineer as part of the overall submission. Drainage volume shall not be increased over what it would have been if the site was left in its former use and water conservation practices were applied. The finished condition must meet the City standards for storm water retention-detention contained within the Municipal Code;
5. Be covered with arable topsoil (except for areas under water) to a minimum depth of six inches, and shall have a minimum of 10 percent organic material, except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations;
6. Be successfully planted (after replacement of the topsoil) with trees, shrubs, legumes, grasses or other vegetative ground cover in accordance with the Reclamation Plan in order to avoid erosion.
7. Whenever production and/or processing on any property shall have been completed, then all processing plants, buildings (other than those shown on the Reclamation Plan), structures (except fences), and equipment, shall be entirely removed from the property within one year after completion, including, but not limited to, such items as stumps, boulders and other debris resulting from excavation and related activities.

M. Operations and Reclamation Requirements and Performance Standards: The operation and reclamation of the property shall be in accordance with the following conditions:

1. Existing trees, shrubs and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as may be necessary to present a reasonably neat appearance, to prevent grass fires or the hazard of grass fires.
2. The following apply to protection of ground water levels and quality:
 - a. No extraction operations shall be conducted in such a manner that the ground water table of surrounding properties is harmfully lowered or impacted. The maximum excavation depth shall not go below existing ground water, except where the approved Reclamation Plan provides for a water feature or for refilling of such excavation. Any such refilling shall be in compliance with applicable state and federal laws and regulations governing ground water pollution.
 - b. Water pumped from the site for the purpose of washing shall be retained in a

pond until the silt and clay settles and then the water shall be recycled in the area affected.

c. The owner/operator shall install a ground water monitoring well or wells, the location, type and number of which shall be shown on the Operations Plan. Such wells and related gauges shall be located and constructed to provide measuring data relative to the movement of ground water and changes in the levels thereof and water quality testing. The City shall have the authority to establish and periodically update ground water parameters consistent with standards in the field of earth materials extraction monitoring typical in the State of Illinois. As of the date of the adoption of this Section 15.09-M2, which is August 26, 2002, the following parameters shall apply:

I. The owner/operator shall provide ground water level reports quarterly using the data from the monitoring well or wells and related gauges, at times and upon forms provided by the City Administrator.

II. The owner/operator shall provide annual ground water quality reports at times and on forms provided by the City Administrator using samples from the monitoring well or wells. If the operations involve the removal of materials from below the elevation of the ground water, or if the standing water exists within the area of active operation or disturbed area, then the owner/operator shall provide ground water quality data to the City Administrator quarterly with the ground water level reports.

3. If the subject areas shall front on a township road which is used for access to the site, the owner/operator shall, coincidental with commencement of operations, bring that township road up to the paving standards defined for industrial roads in the *Schedule of Minimum Design Requirements for Subdivision Roads in McHenry County*, from the entrance to the subject area to the nearest federal, state or county road used by the operator. The owner/operator shall repair any section of road damaged as a result of gravel hauling operations, but shall not be responsible for the normal wear and tear of the road. This provision shall not be construed to require the operator to purchase additional right-of-ways.

4. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.

5. The following apply to surface mining conditions only, not to reclamation conditions:

a. Surface mining operations that remove and do not replace the lateral support shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to 100 feet unless a lesser distance is mutually agreed to by the operator and adjacent property owner and submitted in writing for review and approval by the City.

b. The bottom of the slope of the mined face of the excavation shall not be closer to the point determined per Section 15.09-M5a herein, than a distance equal to 1½ times the depth of the excavation.

c. If consolidated materials occur in the mined face, the slope of the face may be steeper than 1½ to 1 slope per Section 15.09-M5b herein for the depth(s) of those materials; however, all other mined slopes of unconsolidated materials shall be no steeper than those per Section 15.09-M5b herein.

d. Overburden shall not be removed from more land than is to be mined within one year. No overburden shall be removed from additional land until vegetative ground cover in conformance with the Reclamation Plan is installed on all land where excavation is complete and the land is not being used for earth material storage.

6. Notwithstanding any other provisions of this Section 15.09 or of other ordinances and codes relating to screening, all active operations shall be screened and buffered by an earthen berm of not less than six feet in height and/or a farm fence of not less than 54 inches in height, of such a design so as to allow the free flow of wild animals, but to discourage trespass by humans and farm animals. Berms that will remain in place for one year or longer shall be planted with grass or suitable vegetative ground cover, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so they do not erode into the road or highway right-of-way or onto the adjoining property. Such berms shall be installed prior to the commencement of any operations adjacent to said activity. The berm design and the landscaping plan, including the type, quantity and species of plants, shrubs and trees, shall be subject to review and approval of the City. Trees and shrubbery shall be planted on the berm. Trees planted shall be approximately 10 feet or more in height and shall be planted in two rows approximately 16 feet apart, and shall be centered approximately 20 feet apart in each row, with the back row staggered. Random shrubbery shall also be planted. The trees shall be as specially developed and recommended for rapid growth and appearance by the United States Forestry Service, and shall be in accordance with the standards adopted by the Illinois Department of Mines and Minerals pursuant to the Illinois Surface-Mined Land Conservation and Reclamation Act. Until such growth is established, the owner or operator shall be responsible for weed control and may be required to do re-seeding or re-planting for areas where the vegetation dies or does not take. A gate shall be placed at all entrances that will be kept locked whenever the owner, operator or their agent is not on site.

7. The processing and stockpiling of earth materials and recyclable materials shall not be conducted within 300 feet of the property lines of any adjoining residentially zoned property. There shall be no importation onto the site of materials that do not relate to the approved uses, including, but not limited to, mixed construction debris and asphalt. The maximum height of stock piles of any materials shall not exceed the height of the earthen berm on the perimeter of the property.

8. Other than maintenance functions, no earth extraction and processing operations, ready-mix or concrete production, or recycling of concrete, shall take place at any time on Sundays, or holidays recognized by both state and federal governments, or on Saturday prior to 6:00 a.m. and after 4:00 p.m. or between 6:01 p.m. and 5:59 a.m. on all other days.

9. Operations shall be conducted so that noise levels and air and water standards comply with federal and state standards.

10. To minimize airborne dust and the deposit of dirt and gravel on public streets, all access ways and on-site roads shall be maintained in a dust-free condition either by paving or spraying with calcium chloride or other products of like effect.

11. The premises shall be neat and orderly, free from junk, trash, abandoned equipment, or unnecessary debris. Debris, including, but not limited to rebar from concrete recycling, shall be regularly removed from the site. The site shall not be used as storage for debris not related to the special use permit. Buildings and structures shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged. Berms and fences shall be kept in good repair.

12. Enough topsoil must be stockpiled to meet the finished conditions of Section 15.09-M5 herein.

13. Trucks hauling excavated materials shall be loaded so as to prevent spillage onto public streets. All trucks shall be covered. Any spillage on streets must be removed by the owner or operator within 24 hours of a spill. The entrances into the site shall be swept on a regular basis, with no less a frequency than weekly during peak season (April 1 to November 30). The owner or operator shall attempt to minimize the migration of loose gravel onto public streets by requiring that spread pans, side rails, suspension systems and the like be kept free of sand and gravel to an extent as is reasonably possible.

14. All equipment, machinery and vehicles operating on the site shall be operated and maintained so as to minimize the possibility of oil or fuel leaks. Should a leak or similar accident occur, the owner or operator shall have a written emergency plan and the proper equipment and materials necessary to contain and clean up any such leak. If a leak occurs such that the plan is put into effect, the City shall receive a report of the incident. The plan shall be updated as technology evolves.

15. Only those vehicles and items of equipment which relate to the approved activities on the site may be parked or stored on the site.

16. In case of conflict between any Operations Plan or Reclamation Plan or map and the provisions of this Section 15.09-M, the greatest restriction or highest standard shall govern, unless an exception is specifically provided for in a special use permit.

N. Enforcement: The City Administrator, or his designee, in conjunction with the City Engineer, shall annually review each special use granted under this Section 15.09. Such inspections shall include all activities permitted on the property. In addition to the Reclamation Plan/map, the owner/operator shall provide the City Administrator with an annual aerial photo of his total operation, enlarged to a scale of one inch equal 100 feet or other scale that would adequately display the property affected on a 30-inch square format. The first photo shall be taken during the first year in operation and subsequent photos shall be taken in the same month of the following years. Each year's photo shall be presented at the same scale for the purpose of comparison. The photo shall be taken in clear daylight when the area is without foliage or snow. Every three years, the City shall be provided with a new topographical map of the site drawn at two-foot contour intervals.

The City Administrator, in conjunction with the City Engineer, shall prepare a report and submit it to the City Council for its review and approval. If it is determined that the operator is not in compliance with this Section 15.09-N, the surety requirement, the operations and reclamation statements, plans or maps, or any other aspect of the approved special use permit, the City Administrator shall issue a stop-work order on all operations other than reclamation work needed to bring the operation into compliance.

Before release or reduction of a surety, an on-site inspection of the acreage reclaimed shall be made by the City Administrator and the City Engineer to check for compliance with the Reclamation Plan and any additional conditions of the special use permit. A random count procedure shall be used to check seeding, plantings and depth of topsoil. The full costs of all inspections shall be borne by the owner/operator. Failure to pay invoices for such costs after the expiration of 30 days after the date the invoices are mailed or delivered to the owner/operator, shall result in a stop-work order being issued by the City.

15.10 **ADULT BUSINESSES**

A. Purpose and Intent: It is the intent of this Section 15.10 to protect and preserve the health, safety, welfare and morals of the citizens of the City by regulating adult business within the City.

B. General Standards:

1. A special use permit must be issued for each adult business pursuant to this Section 15.
2. Location Restrictions: No adult business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, daycare center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship. The distance limitation shall be measured in a straight line from the lot lines of said adult business and applicable residential zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship.

3. Only one adult business shall be permitted per block face.
4. Sign Requirements: The following sign requirements shall apply to any adult business:
 - a. All signs shall be flat wall signs.
 - b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, or as permitted by the ordinances of the City, whichever is more restrictive.
 - c. Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. One 1 square foot sign may be placed on the door to state hours of operation and admittance to adults only.
5. Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.
6. Alcoholic Liquor Prohibited: It shall be unlawful for any adult business to sell, distribute or permit beer or alcoholic beverages on the premises.

15.11 **SOLAR FARM**

A. All Solar Farm special use permits shall be subject to the following standards and regulations:

1. Setback. The Solar Farm above ground components must be set back at least 25 feet from all property lines. However, for any Solar Farm above ground improvements including, but not limited to, fences or solar panels, abutting a state route, the Solar Farm above ground components shall be set back 150 feet from the centerline of such state route. In addition, Solar Faun above ground components must be set back at least 50 feet from the centerline of any non-state route right-of way.
2. Visual Screening. Ground-mounted mechanical equipment that is visible outside the perimeter of the property on which the Solar Farm is located must be screened from view of roads and dwelling units located within 1,000 feet of the Solar Farm in accordance with the provisions of this subsection. Required screening and bews shall be located within required setbacks, but outside of any paved road surface on land dedicated to the City by the owner, and must comply with one of the following options or a similar alternative approved by the City Council at the time of special use permit approval as follows:
 - a. A landscaped area at least ten feet in width with at least one shrub per five linear feet) plus at least one evergreen tree per 25 linear feet of perimeter area. Shrubs must be at least three feet in height at the time of planting. Evergreen trees must be at least 5 feet in height at the time of planting; *or*

b. A landscaped area at least ten feet in width with a solid wall or privacy fence with a minimum height of 8 feet. At least one evergreen tree is required per 30 linear feet of the fence or wall.

In addition, a landscaped berm of at least five feet in height may be installed in the required setback area relative to any adjacent parcel on which a residence is situated. Such berm shall be landscaped with one evergreen with a minimum height of five feet every 25 linear feet.

Every evergreen in the landscaped area described in 2(a) or 2(b) above, at the time of planting, shall be at least five feet in height. In the event that a shrub or tree dies within any such landscaped area, such shrub or tree shall be promptly replaced by the then owner of the subject property, weather permitting, No portion of the landscaped area or berm shall be situated within any right of way.

3. Glare. The solar energy system utilized must be designed, constructed and sited to insure glare or reflections on adjacent properties and roadways will not materially and negatively impact the use of such adjacent properties and roadways by their owners and travelers and to not interfere with traffic, including air traffic, or otherwise create a safety hazard. In the event that glare concerns are documented and presented to the City following commercial operation, the Solar Farm owner will take actions to address those concerns) including adding landscaping or privacy fencing as necessary or otherwise modifying the project site to address such concerns.

4. Soil and Ground Cover.

a. Top soils shall not be removed from the site during development unless the removal is expressly approved as part of the special use permit.

b. Perennial vegetative ground cover must be maintained or established in all areas containing a solar energy system and in required setbacks to prevent erosion and manage stormwater run-off. The ground cover shall also include an area that is suitable habitat for pollinators such as bees.

5. Compliance with Endangered Species Laws. The applicant shall be in compliance with federal and state laws regarding endangered species.

6. Lighting. A Solar Farm may not be artificially illuminated, unless required by the FAA or other applicable government agency or authority or approved by the City as part of the special use process. If lighting is approved by the City, such lighting shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Lighting of the solar panels shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

7. Underground Utilities. Onsite power lines communications and utility connections must be placed underground unless expressly provided otherwise in the text of the body of the ordinance granting the special use permit. Such undergrounding requirement includes but is not limited to those power, communication or other lines running between banks of solar panels, but does not include transmission lines and interconnection facilities that will be used by the Solar Farm to connect to electric lines, electric substations or interconnections with buildings.

8. Signage. Any sign on a Solar Farm shall comply with the City's sign ordinances. A sign consistent with the City's sign ordinance shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar panels shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar panels.

9. Abandonment and Decommissioning. A Solar Farm that (a) fails to transmit any energy to the electric distribution system within any period of twelve or more consecutive months and (b) where the owner/operator is not pursuing the repair of such Solar Farm will be presumed to have been abandoned. If the City reasonably believes an abandonment to have occurred in accordance with the prior sentence, the City shall provide written notification of such belief to the owner/operator and the owner/operator shall have thirty (30) days after receipt of such written notice to reply to such notification with evidence refuting such contention. In the event the owner/operator fails to refute such contention within such thirty-day period, the City may presume that the Solar Farm has been abandoned unless, prior to the City (i) accessing any cash or letter of credit posted by owner as security for the decommissioning or (ii) taking over and commencing the decommissioning, the City is provided with clear and convincing evidence otherwise.

a. Any Solar Farm that has been abandoned must be decommissioned and removed within 180 days.

b. Decommissioning must consist of:

i. Physical removal of all solar panel installations, structures, foundations, equipment, security barriers or fences and transmission lines from the site to a depth below grade of three (3) feet.

ii. Recycling or disposal of all solid and hazardous waste in accordance with local, state, and federal regulations.

iii. Stabilization, restoration and/or re-vegetation of the site.

The Zoning Administrator is authorized to allow the owner or operator to leave landscaping or designated foundations three (3) feet or less below grade in place in order to minimize erosion and disruption to vegetation.

b. Decommissioning Plan.

i. A decommissioning plan prepared by a qualified engineering firm outlining the anticipated means and costs of removing the Solar Farm must be submitted with the building permit application associated with the special use permit application.

ii. The decommissioning plan shall ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The plan must include provisions for the removal of all structures and foundations, the removal of all electrical transmission components and the restoration of soil and vegetation in accordance with this section.

iii. The owner/operator must provide a present-day decommissioning cost estimate and identify the parties responsible for decommissioning. This estimate will include the cost to remove equipment, less applicable salvage values.

iv. The owner/operator must submit a summary of the decommissioning plan to all property owners owning properties adjacent to the Solar Farm site. Before issuance of a special use permit, the owner/operator of the Solar Farm must provide to the City Administrator a certificate signed by the Solar Farm owner certifying that a summary of the decommissioning plan has been sent by certified mail to all of such property owners. In addition, prior to the issuance of a building permit for construction of a Solar Farm on all, or a portion, of the property, the City shall require cash in an escrow account or an irrevocable letter of credit, in an amount equal to 125% of the present-day decommissioning cost estimate provided by the owner/operator under Section 15.03.A.9.c.iii., designating the City as beneficiary, issued by a financial institution with an office in Illinois upon which the letter of credit may be drawn and substantially in the form attached hereto as Exhibit A or otherwise in a form approved by the City attorney. The letter of credit shall provide that the City may draw upon the funds upon the occurrence of any of the following events: i) a breach or failure by the owner or operator to complete all or a portion of such plan; or ii) a material breach or failure to comply with any requirement or condition of any zoning ordinance relative to a Solar Farm on the subject property; or iii) such letter of credit is about to expire and has not been, or will not automatically be, renewed; provided, however, that such draw shall not occur in the event of items (i) and (ii) above unless owner has failed to cure such breach or failure within fifteen (15) days of being notified in writing by the City of such breach or failure. The City may also draw upon such letter of credit to compensate any adjacent property owner for property proven to have been damaged as a direct result of a drain tile on the subject property being damaged by the

owner/operator of the subject property. In the event that a letter of credit rather than a cash escrow is utilized, such in-evocable letter of credit shall be renewed by the owner of the subject property or operator of the Solar Farm without interruption for the term of the special use permit. In the event that such letter of credit lapses, such lapse shall result in the revocation of the special use permit for the Solar Farm by the City if not remedied within fifteen (15) days of the City notifying the owner of such lapse or thirty (30) days of such lapse.

10. Monitoring and Maintenance, The owner/operator of the Solar Farm is responsible for keeping the Solar Farm in a safe, sound and well-maintained condition, including painting, grounds keeping, structural repairs, internal access drives and the integrity of security measures. The owner of the Solar Farm will certify to the City at the start of commercial operations that the Solar Farm is in compliance with the Site Plan, and its operation will comply with all federal, state and local regulations in effect at that time.

11. Avoidance and Mitigation of Damages to Public Infrastructure

a. Roads. If the subject property is adjacent to a state route, such state route shall be used for the purpose of transporting components and equipment for construction, operation or maintenance of the Solar Farm. The owner/operator shall obtain applicable permits from the applicable highway authority prior to construction or as needed to remain in compliance with all state laws and regulations.

b. Existing Road Conditions. The owner/operator must conduct a pre-construction survey in coordination with the applicable highway authority to determine the condition of existing roads within the City that will be utilized by the Solar Farm. The pre-construction survey must include photographs and a written agreement to document the condition of the roads and applicable public facilities. The owner/operator is responsible for reasonable ongoing road maintenance and dust-control measures identified by the applicable highway authority for all vehicles used for construction of the Solar Farm during all phases of construction and installation. The owner/operator shall conduct (within 30 days of completing construction) a second video survey of all existing roads used by the Solar Farm for construction activities. Prior to starting construction, the owner/operator shall deliver or have delivered to the City a letter of credit or cash escrow in the amount of Twenty Thousand Dollars (\$20,000.00) as security for the City to cover, in the event of a failure of the owner/operator to meet its obligations, the costs of the City performing the obligations of the owner/operator to make any necessary road repairs to the existing roads used by the Solar Farm for construction activities required due to the impact of such construction activities on such roads. Such letter of credit or cash escrow shall serve as the sole source and amount from owner/operator to cover the costs incurred by the City for its undertaking any such future road repairs to existing

roads required due solely to Solar Farm construction activities that the owner/operator has failed to perform. The City shall release such letter of credit or cash escrow with any unused amounts remaining thereon or therein upon completion of any such necessary road repairs.

c. Drainage and Detention Systems, The owner/operator is responsible for identifying the location of all drain tiles (or, alternatively, the information required in Section 15.03 B.2.d. as an alternative to a drain tile study), detention and subsurface drainage systems on the property and submitting such information to the City at the time of application. In addition, the applicant shall identify detention, drain tile (or, alternatively, the information required in Section 15.03 B.2.d.), or subsurface drainage systems that will be incorporated into the site stormwater permit and for preparing a plan for maintaining such drainage systems during construction and operation of the solar facility. Owner/operator is responsible for repairing, at all times, including but not limited to as part of decommissioning, any damage to drain tiles and other drainage systems that result from construction, operation, or maintenance of the Solar Farm.

12. Financial Assurance. The owner/operator must provide reasonable evidence of financial ability to construct the Solar Farm and all required improvements, as determined by the City Council at the time of special use permit approval.

13. Height. The height of any solar energy system) including panels, shall not exceed twelve feet and six inches as measured from adjoining grade at base to the highest elevation of the equipment, when oriented at maximum tilt position. This limitation does not apply to transmission lines and interconnection facilities or operations and maintenance facilities.

14. Airports. For solar units within 500 feet 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. Solar farms shall not be located adjacent to or within a control zone of any airport.

B. All applications for special use permit approval for a Solar Farm shall include the customary submittal requirements for special use permit applications. In addition, the following information and documentation listed below must be submitted by the later of the date of the submittal of the application for special use or the date of the City Council's having approved this Ordinance.

1. A project description - Applicant shall provide a general description of the project, which will be subject to revision prior to application for the project building permit. Such description shall include the total generating capacity, the equipment manufacturer, the type and model of solar panels proposed, the number of solar panels, the nameplate generating capacity of each solar panel, the proposed height of each solar panel as installed

and overall dimensions thereof.

2. Site plan, which may utilize or be based upon an ALTA survey, showing property lines and physical features, including roads, setbacks, floodplain (if applicable), buildings, the assumed location of solar panels, rights of way, and zoning district designation for the subject property and all abutting properties. Such site plan shall also include or be accompanied by the following:

a. All existing and proposed underground and above ground utilities including but not limited to overhead electric lines on the Solar Farm site including any for the transmission of energy from the Solar Farm to any buyer.

b. Ingress and egress from the site as proposed during construction and thereafter, which indicates the proposed road surface and cover all the subject property.

c. Wetland boundaries.

d. A drain tile study identifying existing drain tiles on the subject property, or, alternatively, a narrative and supporting evidence indicating to the satisfaction of the City Enforcement Officer that drain tiles are not likely to be present within the development site. This evidence may consist of:

- i. Soil maps;
- ii. Historic aerial photographs;
- iii. Historic topographic maps; and
- iv. Wetland maps.

e. A signed reimbursement agreement, in a form approved by the City, which provides for an initial deposit of \$10,000 for the City's professionals fees associated with such application and review by the City

f. Location and size of any abandoned wells or septic systems.

g. Vertical elevation drawings.

h. Number, location, and spacing of solar panels/arrays.

i. Solar energy equipment schematic drawing.

j. Identification of access to, and traffic control for, the project site, during construction and operation of the Solar Farm.

k. Elevation drawing(s) (and/or photographs and or architect's renderings) and site plan showing location, size and design details of Solar Farm, including but not limited to how the power generated will be delivered and proposed meter connections.

- l. Endangered Species EcoCat and IDNR Consultation Termination.
- m. IHPA consultation initiation in accordance with Section 20 ILCS 3420 (Illinois State Agency Historic Resources Preservation Act),
- n. Natural Resources Inventory Report from McHenry County Soil and Water District.
- o. ALTA survey and title report for the site.
- p. Wetland boundary map/delineation reports with an U.S. Army Corps of Engineers jurisdictional determination letter.
- q. A tree survey and tree preservation plan for trees within the site that are identified as significant either in the (1) Natural Resource Information Report from the SWCD) or (2) identified as an oak stand of high ecological significance by the McHenry County Conservation District.
- r. Landscape plans.
- s. Grading and excavation plan.
- t. A map shall be provided identifying all offsite tributary areas. A calculation of flow depths on overland flow paths including all onsite and offsite tributary area is also required.
- u. Stormwater management report shall identify volumes of depressional storage before and after improvement.
- v. Easement documents (proposed and existing).
- w. Sight distance studies for access points.
- x. Phasing map or plan, as applicable.

C. No Solar Farm shall be constructed, installed or modified as provided in this section without first obtaining a building permit. The application for a building permit for a Solar Farm must be accompanied by the fee required for a building permit. All applications for a building permit for a Solar Farm must include the information and documentation listed below in addition to the customary submittal requirements for a building permit.

All material modifications to a Solar Farm made after issuance of the required building permit shall require approval by the City.

- 1. Interconnection service agreement or evidence of filing required Interconnection service applications with the electric utility.

2. Operation and maintenance plan of the Solar Farm, including measures for maintaining safe access to the installation, dust control and maintenance plans for roads, stormwater controls, as well as general procedures for operation and maintenance of the Solar Farm.
3. Name, address and telephone number of the person, firm or corporation constructing and installing the Solar Farm.
4. Manufacturer specifications and installation methods of the solar panels, poles and racks and other major equipment and devices including: wattage capacity, dimensions of panels, mounting mechanisms and/or foundation details and structural requirements.
5. Evidence that the system shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
6. A certificate of compliance demonstrating that the equipment comprising the Solar Farm has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency.
7. No Solar Farm shall be constructed, installed or modified as provided in this section without first obtaining a building permit. The application for a building permit for a Solar Farm must be accompanied by the fee required for a building permit.
8. The Solar Farm owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. All means of shutting down the Solar Farm shall be clearly marked. The owner or operator shall identify a responsible person by title for public inquiries throughout the life of the Solar Farm.
9. Description of the hours of operation for construction and maintenance of the facility, numbers of employees and type of traffic to be generated from the site (TIS).
- 10, Water usage impact study indicating any impact on county and city water resources.
- 11, Complaint Resolution Process - the applicant shall submit a process to review and address any complaints that may arise from neighboring property owners during the construction and operation of the Solar Farm.
12. Waste Disposal Plan - All solid waste generated from supplies, equipment, parts, packaging or operation of the facility shall be removed from the site in a timely manner and disposed of in an appropriate manner. Any hazardous waste

generated by the facility including but not limited to lubricating materials shall be removed consistent with all local, state and federal rules and regulations.

13. Weed/grass control plan.

14. Signage plan - signs warning of the high voltage associated with the Solar Farm shall be posted at every entrance to the facility, at the base of all pad mounted transformers and substations. A sign that provides emergency contact information, such as phone number, shall be posted near the tower and the operations and maintenance building.

15. Fence Plan (8' minimum) with appropriate warning signage.

16. A fire protection plan for the construction and operation of the facility, and emergency access to the site,

17. A permanent, nonexclusive easement, in a form approved by the City, providing for a blanket ingress and egress easement in and upon the subject property in favor of the City allowing it, in its sole discretion, to i) remove all solar panel installations, structures, facilities, equipment, and security barriers or fences, as well as transmission lines from the subject property to a depth below grade of three feet; ii) remove and recycle or dispose of all solid or hazardous waste in accordance with local regulations, and state and federal law; and iii) stabilize, restore or re-vegetate the subject property and to restore the soil on the subject property if the Solar Farm is deemed abandoned in accordance with Section 15.03. A,9, Such easement shall be conveyed to the City no later than 30 days after expiration of a building permit for a Solar Farm, The sole purpose of the easement will be to enable the City, in the event the City determines in its reasonable discretion that there has been a material breach by the owner/operator in the implementation of the decommissioning plan for the subject property, to enter and exit the property in order to complete the decommissioning.

18. Stormwater Management Permit application including stormwater management report, drainage plan and erosion control plan.

19, Grant by warranty deed(s) with plats of dedication from the owner of the property to the appropriate governmental unites) dedicating a right-of-way from the center line of the road to three feet adjacent to the roadway adjacent to the subject property.

20. An encroachment, cooperation or similar agreement from owner of gas or other pipelines to grade over their pipeline.

21. A current general liability policy covering bodily injury and property damage naming the City as additional insured with limits of at least two million dollars per occurrence and four million dollars in aggregate.

22. Copy of NOI, copy of SWPPP for construction and post construction and copy of approved NPDES permit.

23. Structural Engineering plans for foundation and design of solar panels racking and support given local soil and climate conditions.

24. Storm sewer calculations.

25. Signed, sealed and dated Engineer's Opinion of Probable Construction Costs for infrastructure improvements relevant to stormwater management and municipal services.

26. Soils reports with logs.

27. IDOT approval, if required.

28. All material modifications to a Solar Farm made after issuance of the required building permit shall require approval by the City. Any material modification must be reviewed and acted upon by the City within a sixty (60) day period after being submitted by the owner to the City for approval.

29. The decommissioning plan required to be submitted pursuant to Section 15.03 A.9.c.

All other requirements of the ER Estate Residential District shall apply unless relief is provided by the City. In addition) the City may require as a condition of such special use that a development or annexation agreement be entered into by the parties.

15.12 **CONDITIONS OF APPROVAL**

A. Development of Conditions: The Planning and Zoning Commission may recommend, and the City Council may impose, such conditions of approval upon a special use permit as to the establishment, location, construction, maintenance and operation of a special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of Section 15.03 herein.

B. Landscape Plan: A Landscape Plan shall be required for all applications for a special use permit. The Landscape Plan shall be prepared in accordance with Chapter 21, Landscaping Code, of the Marengo Municipal Code. The Commission or the City Council may request or require the review of all landscape plans as part of the consideration of a petition for a special use permit.