

# ORDINANCE

**22-17**

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WHEREAS, Lawrence County, Illinois is a non-home rule unit of local government pursuant to Article VII, Section 7 of the 1970 Illinois Constitution:

WHEREAS, the County Board of Lawrence County has determined it necessary to pass an ordinance regulating solar farms pursuant to its lawful authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001 and/or 55 ILCS 5/5-1063.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF LAWRENCE COUNTY, ILLINOIS THAT THE FOLLOWING ORDINANCE TO REGULATE COMMERCIAL SOLAR FARMS IS HEREBY ADOPTED ... WITH AN **EXHIBIT A ROAD USE AGREEMENT** ATTACHED:

1. Design Standards.

- a. This ordinance shall apply only to solar farms that are erected for utility purposes and shall not apply to any private personal use of solar power.
- b. Foundations. The project's engineer or another qualified engineer shall certify that the foundation and design of the solar panel is within accepted professional standards, given local soil and climate conditions. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, Illinois Public Act 099-0906 and the National Electric Code as amended. The installation of new solar energy generation facilities shall be installed by a qualified person as defined by Illinois Public Act (known as the "Future Energy Jobs Act").
- c. Power and communication lines. If any digging is deemed necessary, JULIE shall be contacted before any digging or excavation begins.
- d. Minimum lot size. No commercial solar farm shall be erected on any lot less than five (5) acres in size. Any deviation to this will be at the discretion of the county board.
- e. Height. Systems, equipment and structures shall not exceed 30 feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines and utility poles.
- f. Setbacks. Ground mounted solar energy systems as part of a solar farm shall have a setback for all equipment excluding fences a minimum of 100 feet from the front entrance to the solar energy farm and 50 feet from all other property lines (including road rights of way), with the exception of residential property lines, in which the solar energy system shall be setback 100 feet for existing residential properties, with the setback distances to be measured from the edge of the solar equipment of the solar farm to the property line of existing residential properties. The Lawrence County Board may grant a variance to such setback requirement if the proposed or existing buffer is sufficient to screen the project from view from adjoining property or public rights-of-way, if the owners of the adjoining properties agree to waive these setback requirements. For clarification, these setbacks do not apply to adjacent parcels included within the project site.

- g. Screening and fencing. The solar energy system shall be fully enclosed and secured by a fence with a minimum height of six feet. Keys shall be provided at locked entrances for access by appropriate emergency personnel. The applicant shall propose a landscaping plan, where necessary, to minimize the visibility of the project from adjacent residential structures. The landscape plan shall take into account the type(s) of vegetation to be planted, along with its approximate location. Earth berms and other topographical features and existing wooded areas may be acceptable forms of screening.
- h. Lighting. If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent residential parcel.
- i. Noise. Noise levels from each solar farm shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations.
- j. Performance standards. All solar power plants must conform to the performance standards as set forth by any local, state, federal regulatory standards, Illinois Public Act 099-0906 or the National Electric Code as amended.
- k. Signage. An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the solar farm project. The sign at the entrance to the facility shall include the facilities 911 address and two 24-hour emergency contact numbers in letters that are a minimum of 4 inches.
- l. Outdoor storage. Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm shall be allowed. The Lawrence County Board Solar Farm ("Subcommittee") shall have the discretion in determining whether outdoor storage is in compliance with this provision. In any event, all outdoor storage areas shall be paved with bituminous surface and either fenced or screened to prevent viewing from adjoining properties and uses. For clarification purposes, during construction periods, it is understood that there may be materials, vehicles, and equipment on the site(s) that do not support the operation or maintenance of the solar farm. It will be further understood that any materials, vehicles, or equipment on the site during construction that does not directly support the operation and maintenance of the solar farm will be removed at the completion of the construction as to be in compliance with this section.
- m. Aviation protection. For solar energy systems located within five hundred (500) feet of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glaze 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 Federal Obligated Airports, or most recent version adopted by FAA.
- n. Fire Protection. A fire protection plan for the construction and the operation of the facility and emergency access to the site.
- o. Endangered species and wetlands. Solar farm developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer.

2. Application requirements. Due to the unique nature and special requirements of solar power plants and their potential impacts to adjoining properties and government services, solar power plants shall be required to submit and obtain approval on the following items or any special conditions required by the Lawrence County Board. The applicant shall be required to submit two copies of all documents proving ownership or interest in the property.

a. A site plan with existing conditions showing the following:

- i. Existing property lines and property lines extending 100 feet from the exterior boundaries of the solar project, including the names of adjacent property owners and current use of those properties.
- ii. Existing adjacent public and private roads, showing widths of the roads and any associated easements.
- iii. Location and size of any abandoned wells, sewage treatment plants within the solar farm or on adjacent roads.
- iv. Existing buildings and any impervious surfaces within the solar farm.
- v. A contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.
- vi. Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas etc.)
- vii. Waterways, watercourses, lakes, public water and wetlands.
- viii. Any Delineated wetland boundaries.
- ix. A copy of the current FEMA FIRM map that shows the subject property. And, the 100-year flood elevation and any regulated flood protection elevation, if available.
- x. Floodway, flood fringe and/or general floodplain district boundary, if applicable and not provided on the copy of the current FEMA FIRM map.
- xi. Mapped soils according to the Lawrence County Soil Survey.
- xii. Surface water drainage patterns.
- xiii. The location of any known subsurface drainage tiles (where able to be determined).
- xiv. The location of any active or abandoned mines or mineshafts.

b. Plan for proposed conditions:

- i. Location and spacing of solar panels.
- ii. Location of access roads and access points.

- iii. Planned location of underground or overhead electric lines connecting the solar farm to a building, substation or other electric load.
  - iv. New electrical equipment other than at the existing building or substation that is to be the connection point of the solar farm.
  - v. Sketch elevation of the premises accurately depicting proposed solar energy conversion system and its relationship to structure on adjacent land.
  - vi. Weed/grass control. Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the solar farm must maintain the fence and adhere to the weed/grass control plan. If the operating company fails to adhere to the plan, the County of Lawrence may impose a fine of \$750.00 per violation per week for failure to comply.
- c. All solar power plant applications shall be accompanied by a preliminary map and plan showing the roads and rights-of-ways that will be utilized for both the construction and operation of the solar plant. The applicant shall submit an executed agreement between the solar power plant owner/operator and all road district authorities with infrastructure affected by the solar power plant to the county. This agreement shall include a minimum:
- i. A final map identifying the routes that will be used.
  - ii. A plan for maintaining and/or repairing the affected roads.
  - iii. Other inclusions as specified by the Lawrence County Board or affected road authority.
- d. A general cost per megawatt.
- e. A description of the method of connecting the array to a building or local distribution network.
- f. At the time of the applying for approval, a written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. A copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary shall be provided to the county.
- g. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event that they are not in use for 12 consecutive months. The operating company shall have six (6) months to complete the decommissioning plan or the county will take the necessary decommissioning steps. The plan shall include provisions for removal of all structures (including equipment, fencing and roads) and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structure and/or foundation shall meet the provisions of any applicable Lawrence County ordinances and/or any regulations of the Illinois Environmental Protection Agency or the United States Environmental Protection Agency. The decommissioning security amount will be developed by a third party Illinois-licensed professional engineer which has been mutually agreed upon by the applicant and the

Lawrence County Board and shall be required by the county in order to assure the proper decommissioning of the site. The third party Illinois-licensed professional engineer may account for the scrap and salvage value of the project in developing the proposed decommissioning security amount. In no instance shall the financial security be less than \$1,000.00 per acre. This security financing should be in the form of an irrevocable letter of credit or bond. The decommissioning plan and financial security must be presented to and accepted by the Lawrence County Board prior to the start of construction for the facility. The applicant/owner will reevaluate the decommissioning cost and financial assurance at the end of years, ten, twenty, and thirty, as applicable. The reevaluation of the decommissioning cost and financial assurance will be mutually agreed upon by the applicant and the Lawrence County Board. All costs associated with the third party Illinois-licensed professional engineer will be paid by the owner operator of the solar farm.

The county shall have access to the financial assurance for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of the project life or facility abandonment. The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

The county is granted the right to seek injunctive relief to effectuate or complete decommissioning, as well as the county's right to seek reimbursement from applicant or applicant 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 successors, or in which they have interest, for the amount of the excess and to take steps allowed by law to enforce said lien.

An update to this decommissioning plan should be submitted to the county every three (3) years. In addition, any decommissioning plans signed by the party responsible for decommissioning and the landowner (if different), shall be submitted with the application.

In the event that the State of Illinois enacts a law with regard to solar farms, such as Agricultural Impact Mitigation Agreement (AIMA) legislation, the strictest requirements shall prevail. For the avoidance of doubt, this provision shall not apply to any projects or properties that are otherwise grandfathered into and/or exempted under such legislation.

The county reserves the right to require reasonable additional information or components to the plan as the county deems necessary to ensure that an adequate proposal is in place to decommission the facility in its entirety and that adequate funds are available.

- h. **Liability insurance.** The owner operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name Lawrence County as an additional insured with limits of at least two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than five thousand dollars (\$5,000.00). The applicant/owner must provide proof of insurance to the Lawrence County Board prior to construction and then on an annual basis. Applicant must also provide proof of insurance upon any material changes to the terms and conditions of the policy.

3. **Fees and costs.** No solar farm application shall be accepted until the filing fee of \$5,000.00 is paid and accompanied by a notarized statement of the appropriate corporate officials or official legal representative of the applicant that the applicant will pay to the county additional fees to reimburse the county for moneys expended in excess of \$5,000.00 in preparing for, processing, reviewing, and evaluating the application to its final resolution.

4. Administration and Enforcement. The Lawrence County Board Solar Farm Subcommittee, which shall consist of the chairman of the Lawrence County Board, the Lawrence County Highway Engineer, and an at-large member of the Lawrence County Board selected by the chairman of the Lawrence County Board, shall enforce the provisions of this ordinance through an inspection at times that are deemed necessary. The said Solar Farm Subcommittee is hereby granted the power and authority to enter upon the premises of the solar farm at its discretion by coordinating a reasonable time with the owner/operator of the facility. Any person, firm or corporation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this section may face fines of not more than \$750.00 for each offense or rescission of permit. Any challenge to any fine or rescission of permit may be challenged first to the Lawrence County Board before initiation of any suit through the appropriate court system.

The applicant shall submit its application to the Subcommittee. The Subcommittee shall review and determine whether the application is complete within thirty (30) days of the applicant's filing. If the application is not deemed complete, the Subcommittee shall instruct applicant why applicant is insufficient and allow applicant the opportunity to re-submit a complete application. Within 30 days of the application being deemed complete, the Subcommittee shall review the application and make a recommendation to the Lawrence County Board regarding approval of the application. The Lawrence County Board will have thirty (30) days to act on such application. Applicant shall have thirty (30) days to appeal any decision by the Lawrence County Board for reconsideration by the board. Any approval of a Solar project will be valid throughout the useful life of the project, including through decommissioning.

5. Annual Update Requirements. All contact information including name, phone number and address of the current property owner, lessor, lessee, the interconnecting utility company, and buyer of the power (if applicable and if this information can be disclosed publicly), shall be submitted annually within 30 days of the anniversary date of the permit until decommissioning has been completed at which point the permit will be null and void.

6. This Ordinance shall be in full force and effect from and after its passage.

Passed by the Lawrence County Board on this 17<sup>th</sup> day of August, 2022.

AYES: 4

NAYS: 0

PRESENT: 0

ABSENT/ABSTAIN: 2 (absent)

APPROVED this 17<sup>th</sup> day of August, 2022

  
JAMES A. BREWER  
LAWRENCE COUNTY BOARD CHAIRMAN

ATTEST:   
WILL C. GIBSON  
LAWRENCE COUNTY CLERK

EXHIBIT A

An addendum to Ordinance 2022-17  
of the County of Lawrence, IL

ROADWAY REPAIR AND MAINTENANCE AGREEMENT

This Road Repair and Maintenance Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ [government type] Lawrence County, an Illinois County (the “Authority”) and \_\_\_\_\_ (the “Company”) a \_\_\_\_\_ [business type] of the State of \_\_\_\_\_ and authorized to do business in Illinois. The Company and County are sometimes referred to herein individually as a “Party” and collectively as the “Parties”. The term “Company’s Representative(s)” shall include the Company’s subcontractors, agents, employees, suppliers, and designees. The term “Authority” shall include the County, its agents, employees or representatives. This agreement shall terminate \_\_\_\_\_ unless otherwise provided. The Lawrence County Engineer shall be the Authority’s representative to legally draw from the Bond, if required.

Recitals

WHEREAS, the Authority has control of several county roads in Lawrence County, Illinois and is required by law to keep such roads in good repair;

WHEREAS, the Company intends to continue use of approximately 0.0 miles of Gravel surfaced roads, 0.0 miles of Oil and Chip (O&C) surfaced Roads and 0.0 miles of Hot Mix Asphalt (HMA) roads as shown below:

	<u>Gravel (mi)</u>	<u>O&amp;C (mi)</u>	<u>HMA (mi)</u>
Authority Hwy Dept:	-0-	-0-	-0-

referred to as the “Road Use Route” and said Road Use Route is shown in Exhibit A. The purpose of the Road Use Route is to provide ingress and egress from the various company sites, for the traffic necessary for the purpose of continuation of Company business and any further operations the Company sees fit at the various company sites (hereinafter referred to collectively as “Road Use Activity”);

WHEREAS, in connection with the Road Use Activity on the various company sites, the Parties desire to address certain issues relating to the roads and bridges owned, operated, and maintained by the Authority along the Road Use Route, and to provide for the repair and maintenance of the roads and bridges on the Road Use Route which may be required as result of the Company’s Road Use Activity, should any such impact manifest, it being referred to hereinafter as the “Road Use Impact”;

WHEREAS, 625 ILCS 5/15-316 allows the proper local authority to prohibit or impose weight limitations on the operation of trucks or vehicles of a certain weight, size, or type (known as “Restricted Equipment”) deemed necessary; and 605 ILCS 5/5 et seq. provides that the Authority has broad power regarding the opening, construction, maintenance, relocation, access to or repair of highways in the Authority system;

WHEREAS, the Company and Authority wish to set forth their understanding and agreement as to the Road Use Impact as a result of the Road Use Activity;

WHEREAS, in the best interest of public health, safety and welfare the Company and Authority have reached an agreement addressing the majority of issues that will arise with the Company's use through Road Use Activity of the Road Use Route which may result in Road Use Impacts;

WHEREAS, the Company has provided to the County Engineer of Lawrence County a site layout plan for the Company's activities and any other related information pertaining to the various company sites and Road Use Route ("Exhibit A"); and

NOW THEREFORE, in consideration of the good faith performance by each Party of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company agrees to the maintenance and repair of the Road Use Route, to their pre-Road Use Activity condition, to the extent to which repairs are consequential to the Road Use Impacts.

ALL PARTIES FURTHER AGREE to the following additional terms and conditions:

1. In no case shall the Company or Company's Representatives utilize any roads with "Restricted Equipment" for Road Use Activity ingress or egress that is not along the Road Use Route, without prior written permission from the Authority.
2. During the term of this Agreement roads shall be maintained by the Company for damages caused by the Road Use Activity, at the Company's sole expense, throughout the term of this Agreement, to a level consistent with the safe and navigable use of the roads as determined by the Company and the Authority.
3. Company agrees that at its sole expense it shall document the condition of the Road Use Route prior to any Road Use Activity via videotape, photograph, and/or other means. Any documentation of the Road Use Route prior to any Road Use Activity shall be promptly provided to the Authority, who will maintain a copy on file until such time as the bond discussed in the following paragraph is released. The Company shall give the Authority seven (7) days' notice prior to the documentation of the Road Use Route.
4. Prior to the Work on the Route, the Company shall post a bond, cash deposit or other surety in a form satisfactory to the proper Authority to cover the costs of Road Use Impact caused by the Road Use Activity on the Road Use Route by Company. The amount of the bond or surety shall be in an amount of dollars (\$ ), secured for the completion of the permanent repairs and restoration under 8. b. i, ii, iii, iv, v and vi. If the Authority is required to expend the Authority's funds to make repairs, the Company SHALL be required to increase bond amount to cover any and all costs to provide the interim repairs of the damage created by the Company. Further when the bond, cash deposit, or other surety is established in a form satisfactory to the instrument to the Authority, in form satisfactory to the proper Authority, which restricts the Company's ability to withdraw funds before the Authority releases them and allows the Authority to draw on the funds in the event of the Company's default.
5. This agreement is entered into as a condition to irrevocable privilege of the Company for the Road Use Activity on the entire Road Use Route, and Company shall receive from



Authority the irrevocable privilege to prosecute such for the term of this Agreement, unless suspended as outlined below. In the absence of other requirements, all motor vehicles to be utilized by Company hereunder, whether owned by Company or others, shall comply with all legal size, load and weight limits in accordance with State Law or local ordinance, and all non-conforming vehicles shall require the proper local permit or local third-party approval.

6. Company shall furnish Authority all necessary contact information, including a twenty-four (24) hour emergency contact number, for the authorized local representative of the Company, and such information shall be maintained and kept at all times concerned hereunder.
7. With regard to Road Use Activity utilizing any of the roads covered by this Agreement, the Company, its subcontractors, and all respective agents, employees, representatives, etc. shall be responsible for ensuring the Road Use Activities are limited to the approved Road Use Route. If the Authority deems it necessary to post the limits of the Road Use Route, Company shall be responsible for placing and maintaining signage in compliance with applicable provisions of the Manual of Uniform Traffic Control Devices and shall install the appropriate signage along the Road Use Route for the Company and Company's Representatives to follow, including but not limited to signs on roads that are not included in the Road Use Route, in order to notify the Company and Company's Representative that Road Use Activity is not allowed on said excluded roads. If Authority determines that any additional traffic signage is reasonably needed, or desired, as a result of this Agreement and in the interests of safety, then the Authority will give reasonable notice to that Company and Company shall provide for such signage at Company's sole expense. In the event that any other safety concerns should arise during the course of this Agreement, Company and Authority agree that they will mutually discuss such concerns and reach a resolution satisfactory to all concerned in a timely manner, however such discussions will not result in a suspension or delay of access to the Road Use Route or of Road Use Activities.
8. Damages and Repairs:
  - a) Periodically, the Authority shall inspect the Road Use Route to ensure it is safe and navigable and to ensure that no Road Use Impacts have occurred that would inhibit safe use.
  - b) If any Authority Road is damaged by Company, its subcontractors or their respective employees, agents, representatives, etc., Company shall promptly repair such damage. Subject to considerations of safety, the presence of emergency conditions, and the cost of such repairs, any permanent repair and restoration shall commence and be completed promptly by Company within no more than two (2) months following notification. The repairs shall consist of the following where applicable to repair Road Use Impacts:
    - i. Grading of gravel roads and drainage ditches and the application of additional gravel on roadway and seeding of disturbed earthen areas.
    - ii. On oil & chip roads that have experienced movement of the roadway surface, shall be scarified, pulverize, compacted, reshaped, and receive the application of a new A-2 bituminous surface consisting of a prime coat, a bituminous cover coat and cover coat aggregate and a bituminous seal coat

and seal coat aggregate. (In accordance with Section 403 of the IDOT Standard Specifications for Road and Bridge Construction.) Grading of drainage ditches and seeding if disturbed.

- iii. On HMA roads that have experienced structural failure, full depth "Pavement Patching" in accordance with Section 442 of the IDOT Standard Specifications for Road and Bridge Construction.
  - iv. Pothole filling
  - v. Culvert Repair
  - vi. Bridge Repair
- c) Following completion of such repair, the Authority and Company shall jointly inspect the repair to confirm that it has been completed to the reasonable satisfaction of the Authority and at a minimum, the condition of the Road Use Route prior to the start of Road Use Activities based on the videotape, photograph, and/or other means used prior to Road Use Activity to record the condition of said Road Use Route. Upon the satisfaction of the Authority, the Authority shall within (5) days, issue a letter to the Company stating such, and upon receipt of said letter by Company this Agreement shall be automatically terminated in whole.
9. Failure to Repair: If Company fails to repair any damage to the Authority roads and bridges/culverts as required by any portion of this Agreement during its term, the Authority, acting collectively or independently, may request in writing that Company perform such repair. If Company fails to commence work on such repairs within five (5) days of such written notice or fails thereafter to maintain reasonable progress in the performance of such repairs, the Authority may draw on the bond established by the Company to complete the repairs on the Company's behalf. The Authority may then order said repairs to be made by the Authority or by a contractor chosen by the Authority. All bills related to the repair work shall be promptly paid for by the Company through its established bond. Should at any time, the established bond contains an insufficient amount of funds to cover the repairs then the Authority shall directly invoice the Company for the shortfall. If for any reason the Company fails to pay bills related to the repair work within a 60-day period, the Authority, acting collectively or independently, shall be entitled to seek legal relief at the expense of the Company.
10. Company shall protect, save, indemnify, and hold Authority, its officials, and employees harmless from any liability, claims, damages, penalties, charges, or costs which may arise or be claimed by the Company, its subcontractors and all respective agents, employees, or any of the Company's Representatives, as a result of any violations of any laws or ordinances, or any loss, damage or expense, including injury or death to any person, from any cause or causes established to be the direct result of Road Use Impact to the Road Use Route.
11. Company assumes all liability for subcontractors and/or agents working on Company's behalf.
12. This agreement shall be binding upon Company and Authority, and their respective successors and assigns.

13. In the event that any clause, provision or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.
14. Agreement shall be governed by the laws of the State of Illinois.
15. The Company may not assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.
16. The work performed to public roads under this Agreement shall constitute a public improvement and here fore Company may be required to pay prevailing wages to all contractors and subcontractors employed in the construction of this improvement.
17. This Agreement shall take effect upon all signatures of all Parties affected below:

Authority

Company

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Office: \_\_\_\_\_

Office: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date