MARION TOWNSHIP PLANNING COMMISSION
AGENDA

REGULAR MEETING
December 17, 2024
7:30 PM

Virtual access instructions to participate in the meeting are posted on www.mariontownship.com
MEETING WILL BE HELD IN MAIN HALL

Call to Order:
Pledge of Allegiance:
Introduction of Members:
Approval of Agenda for: December 17, 2024 Regular Meeting
Approval of Minutes from: November 26, 2024 Regular Meeting
Call for Public Comment:

Public Hearing
1) SUP#02-24 Meadows North Special Use Section 17.21 Multi Family
2) TXT#03-24 Renewable Energy

New Business:
Unfinished Business:
1) SUP#02-24 Meadows North Special Use Section 17.21 Multi Family
2) TXT#03-24 Renewable Energy (to LCPD for review)

Special Orders:

Announcements:

Call for Public Comment:

Adjournment:

Marion Township Public Participation Policy
at Township Planning Commission Meetings

The Public shall be given an opportunity to be heard at every Township Planning Commission Meeting following the adoption of this Policy.
The Planning Commission Chairperson is the moderator of the meeting. In the absence of the Chairperson, the Planning Commission VICE-Chairperson shall be the moderator of the meeting.

The Public attending the meeting either in-person or on-line may speak during the "Call to the Public" part of the meeting agenda. To preserve order, those attending in-person will speak first. When all in-person attendees have been heard, the moderator will ask if any on-line attendee wishes to speak.

When recognized by the moderator, in-person attendees shall come to the podium. The moderator will request that they give their name and address before they begin their comments. When all in-person attendees have finished speaking, the moderator will ask if anyone attending the meeting on-line wishes to speak. On-line attendees may unmute themselves and when recognized by the moderator may speak. On-line attendees will also be asked for their name and address.

All comments shall be addressed to the Township Planning Commission members. The "Call to the Public" is for attendees to provide information or opinions to the Township Planning Commission and is not intended to be a dialogue. Anyone needing a response should contact officials or staff during normal office hours.
The Public attending the meeting either in-person or on-line will be allowed to ask questions and make comments about NEW and UNFINISHED agenda items. These questions and comments must be made during the discussion of that agenda item. Anyone that would like to speak will raise their hand indicating their desire to speak.

When recognized by the moderator, in-person attendees shall come to the podium. The moderator will request that they give their name and address before they begin their comments. When all in-person attendees have finished speaking, the moderator will ask if anyone attending the meeting on-line wishes to speak about the NEW or UNFINISHED agenda item. On-line attendees may unmute themselves and when recognized by the moderator may speak. On-line attendees will also be asked for their name and address.

The moderator can close the questions and comments session about a NEW and UNFINISHED agenda item at his/her discretion.

To preserve efficiency, at any time during the meeting, each speaker, whether in-person or online will be limited to THREE MINUTES.

ADOPTED BY THE MARION TOWNSHIP PLANNING COMMISSION ON 04/25/2023

DRAFT

MARION TOWNSHIP
PLANNING COMMISSION
NOVEMBER 26, 2024 / 7:30PM

PC MEMBERS PRESENT: **LARRY GRUNN** – *CHAIRPERSON*
JIM ANDERSON – *VICE-CHAIRPERSON*
CHERYL RANGE – *SECRETARY*
BILL FENTON
BRUCE POWELSON

PC MEMBERS ABSENT: **NONE**

OTHERS PRESENT: **DAVID HAMANN** – *MARION TWP. ZONING ADMINISTRATOR*
ZACH MICHELS – *TOWNSHIP PLANNER*
PHIL WESTMORELAND – *TOWNSHIP ENGINEER*

CALL TO ORDER
Larry Grunn called the meeting to order at 7:30 pm.

APPROVAL OF AGENDA
Jim Anderson made a motion to approve the November 26, 2024 agenda as presented. Bill Fenton seconded. **5-0 MOTION CARRIED**

APPROVAL OF MINUTES
Cheryl Range made a motion to approve the October 22, 2024 Planning Commission minutes as amended. Jim Anderson seconded. **5-0 MOTION CARRIED**

CALL TO PUBLIC
No comment made by the public.

NEW BUSINESS:
SPR# 03-24 SUP# 02-24 MEADOWS NORTH PRELIMINARY SITE PLAN REVIEW
Pat Keough is the representative for Mitch Harris and reviewed the summary for Meadows North. Pat explained that they were originally proposing 300 units when the traffic study was completed. They are now only proposing 167 units.

Phil Westmoreland reviewed the items they would like to see on the final site plan.

Ruth Clements resides at 804 Spirea and is on the HOA Board for the Meadows. Ms. Clements is concerned about the wetlands nearby the proposed development project. She inquired about EGLE reviewing the development. Pat Keough stated that EGLE does complete a review.

Kathy Haviland-Acker resides at 1149 Peavy Road and is concerned about the overpopulated schools within the Howell School district. She is also concerned about the existing wildlife, increased traffic, potential crime, noise and the development decreasing the value of her home.

An Attorney representing the residents on parcel 18 would like Mitch Harris to be conscious of the ambient surroundings.

Mark Mynsberge resides at 1019 Spirea and is the President for the HOA Board of the Meadows. Mr. Mynsberge made a comment about the existing bylaws.

Zach Michels stated that the number of school-aged kids attending Howell Public Schools is down from previous years. Zach also addressed concerns about spot-zoning and potential reasons for changing the zoning for a particular parcel.

Cheryl Range made a motion to recommend approval to the Board of Trustees for the Meadows North development with the following recommendations.

Motion was withdrawn.

Jim Anderson made a motion to recommend approval to the Board of Trustees for SPR# 03-24 SUP# 02-24 MEADOWS NORTH PRELIMINARY SITE PLAN, with the following recommendations.

- Include the complete traffic study on the final site plan.
- Include the maintenance agreement for the Fire Department emergency access from the Meadows, in the homeowner's agreement.
- Include the maintenance agreement for billboard easements and the gas storage valve easements, in the homeowner's agreement.
- Include the Fire Department review of the emergency access to the units located in the north-west corner of the development, that will only be accessed by crossing a major Township drain.
- Require the street lights to be LED.
- Include the review from the Drain Commission.

Bill Fenton seconded. **5-0 MOTION CARRIED**

UNFINISHED BUSINESS:
TXT# 03-24 RENEWABLE ENERGY REVIEW DOCUMENTS
Jim Anderson explained that PA233 goes into effect in December. He explained that the Board of Trustees had a special meeting on Monday, October 21st and voted to join other jurisdictions in the appeal against the State of Michigan and also create trigger language for a renewable energy ordinance. Jim stated that currently our language does not allow battery storage in our solar overlay and there is a lot of conflicting language that needs to be changed.

Bruce Powelson made a motion to have a special Planning Commission meeting on 12/10/2024 at 7pm. Cheryl Range seconded. **5-0 MOTION CARRIED**

Bruce Powelson made a motion to set a public hearing for TXT# 03-24 RENEWABLE ENERGY on 12/17/2024 at 7:30pm. Jim Anderson seconded. **5-0 MOTION CARRIED**

Zach Michels and Jim Anderson are going to work on the current language and make the necessary updates.

SPECIAL ORDERS
Dave Hamann said the Commissioners need to make a motion for the Mitch Harris public hearing next month.

Jim Anderson made a motion to set a public hearing for SPR# 03-24 SUP# 02-24 MEADOWS NORTH on 12/17/2024 at 7:30pm. Cheryl Range seconded. **5-0 MOTION CARRIED**

ANONOUNCEMENTS
Zach Michels talked about the proposed Mining and Aggregate bill.

CALL FOR PUBLIC COMMENT
Les Andersen resides at 4500 Jewell Road. Les stated that we should reach out to Sara Thomas regarding the Livingston County Conservatory money allocated for southeast Counties in Michigan for PDR's.

ADJOURNMENT:
Bruce Powelson made a motion to adjourn the Planning Commission meeting at 9:25pm. Bill Fenton seconded. **5-0 MOTION CARRIED**

MINUTES TAKEN BY: Jessica S. Timberlake

MARION TOWNSHIP
SPECIAL USE PERMIT

Application No: SUP # 02-24
Date: 8-14-2024

Name of Applicant: Mitch Harris Bldg Co.
Address of Applicant: 211 N. First St. Brighton 48116
Phone Number: 810-229-7838
Parcel ID Number: _____
Email: Mharris@Mitchharris.net

The above applicant is: ☒ Owner ☐ Purchaser ☐ Representative

(Purchaser or representative will need a letter of permission from owner)

Please include the following with your request. These items are needed to determine administrative completeness:

- **The current zoning of the property involved.**
- **Ten (10) copies of the required site plan *(per Section 18.03 of the Marion Township Zoning Ordinance.)***
- **Supporting documentation with regard to all provisions of the Marion Township Zoning Ordinance pertaining to a Special Use Request.**

The undersigned agrees to comply with all of the ordinance requirements for Marion Township. Further, the undersigned acknowledges being responsible for all costs incurred by the township in relation to this request. Such costs include, but are not limited to, engineering reviews, legal fees, newspaper notices, postage, etc. The applicant understands final approval is subject to complete payment of all incurred fees and any outstanding escrow balances.

Mitch Harris Bldg Co. _____
Applicant's Name (print)

Applicant's Signature

Office Use Only

Date Received: 8-14-2024 **Fee Paid:** 500 ESCROW 3000

Materials Received: [redacted] **Site Plans:** _____

Application accepted by: DA

Rev. 10/08

ACE
CIVIL ENGINEERING, LLC

January 30, 2023

Marion Township Planning Commission
2877 W. Coon Lake Road
Howell, Mi. 48843

Re: Proposed Special Use Request for The Meadows North Project

Dear Planning Commission Members:

The Mitch Harris Building Company is requesting special use approval for The Meadows North project located on 74.44 acres of land in Section 2 of Marion Township. The property was recently rezoned from Highway Service (HS) to Urban Residential (UR). The Meadows North project is a proposed 172 multiple-family condominium project that uses two-plex, three-plex and four-plex units. Special use approval is required for multiple-family homes in the Urban Residential district per Section 8.03-D-12 of the Marion Township Zoning Ordinance. It is the purpose of this letter to provide information to show the proposed project meets the requirements of section 16.05-A(1-11) of the Zoning Ordinance as follows:

1. **Be harmonious with and in accordance with the general principles and objectives of the Comprehensive Plan of the Township.**

   The Master plan of the Township shows the designated property with a current land use of Suburban Residential and a future land use of Commercial. The property was recently rezoned to Urban Residential and should provide for a good middle ground between the existing residential uses and the proposed future commercial uses. As a result the proposed special use should be harmonious and in accordance with the general principles and objectives of the Comprehensive Plan.

2. **Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.**

   The project is an extension of the existing Meadows and Meadows West Projects. As a result the character of the general vicinity will remain similar in nature.

5055 Lindemere Drive, Fowlerville, MI. 48836
(517) 545-4141
acecivillllc@gmail.com

3. **Not be hazardous or disturbing to existing or future uses in the same general vicinity and will substantially improve property in the immediate vicinity and in the community as a whole.**

The project as proposed will be developed meeting all current development standards of the township and will not be hazardous or disturbing to uses in the general vicinity. The project will provide needed living units within the community that are similar in nature to the surrounding properties.

4. **Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.**

The project will be accessed off of Peavy Road (100 feet wide R.O.W. Public road). In order to provide adequate access to the site, a double lane boulevard type road will be constructed up to the first intersection within the development. The boulevard type entrance road along with the looped internal road network within the development will then provide an adequate road network for the project.

The project will also be served using public sewer and water that is available to the site and a drainage system that will be designed in accordance with Livingston County Drain Commission standards. Although there will be a demand increase on other essential public services such as police, fire protection, disposal and schools, there will also be an increased tax revenue to fund the increased demand of such services.

5. **Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors**.

The project will involve general activities associated with residential type development and will be constructed in accordance with all current local, state and federal standards. As a result there should not be any operations that will be detrimental to the surrounding area.

6. **Meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.**

   The project has been designed in accordance with the current Urban Residential zoning regulations and will be in compliance with all such standards.

7. **Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.**

   The project will be designed to minimize the disruption of natural vegetation as much as possible and will have a comprehensive replacement landscape plan that will be harmonious with the general area.

8. **Ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.**

   The project utilizes curb and gutter, an underground storm drainage system and detention pond facilities designed in accordance with the current standards of the Livingston County Drain Commission. As a result neighboring properties will not be adversely affected.

9. **Ensure that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.**

   The project will utilize soft building lighting and strategically place intersection lighting so as to not cause any negative impacts on surrounding properties.

10. **Meet the site plan review requirements of Article XVIII. If the applicant chooses to submit a preliminary site plan, the special use permit may also be considered preliminary.**

    When completed the Final site plan will meet all of the requirements of Article XVIII.

11. Conform to all applicable state and federal requirements for that use.

When completed the project will meet all applicable state and federal requirements of the intended use.

We look forward to discussing the information with you in detail at a future planning commission meeting.

Sincerely,

ACE CIVIL ENGINEERING, LLC

Patrick C. Keough, P.E.
President

Special Use Permit Review
for Marion Township Planning Commission

INTRODUCTION

Petition Number	SUP 02-24 Meadows North (SPR 03-24)
Applicant	Patrick Keough, on behalf of Mitch Harris Building Company
Request	Special use permit for a multiple-family building condominium
Location	1410 Pinckney Southern side of Interstate 96, between D-19/Pinckney and Peavy
Site Plan Date	November 11, 2024

PETITION SUMMARY

The applicant is requesting special use permit approval for a multiple-family condominium project with 167 dwelling units. The dwelling units will be attached, with some two, three, and four-unit buildings.

It is our understanding that the dwelling units will be offered for sale, with the unit boundaries consistent with the building envelope. It is common for these types of developments to include limited common elements around the dwelling unit for driveways, hvac condensers, generators, decks, or patios.

Multiple-family developments require special use permit approval in the UR Urban Residential zoning district. Special use permit approval is intended to determine if the proposed use meets the specific standards for that use and the decision criteria for special uses. Special use permit approval does not guarantee preliminary or final site plan approval.

Special use permits are reviewed by the Planning Commission, which forwards them with a recommendation to the Township Board for a final decision. A completed final site plan application must be submitted within 1 year of the associated preliminary site plan approval.

The Planning Commission has already reviewed the associated preliminary site plan approval and forwarded it to the Township Board with a favorable recommendation.

This report focuses on the special use permit review. Elements, including conditions, related to the site plan are not repeated in this report.

PROPERTY/SITE INFORMATION

Address	1410 Pinckney
Location	Southern side of Interstate 96, between D-19/Pinckney and Peavy
Parcel Numbers	*Parcel numbers on the map do not match those shown on the Livingston County GIS. It appears property boundary adjustments/ divisions are not shown on the GIS system.*
Lot Area	74.44 *(gross, includes right-of-way)*
Frontage	~66 feet *(Peavy)* ~150 feet *(D-19/it Pinckney)*
Current Zoning	Urban Residential (UR) with conditions
Existing Uses	Vacant/undeveloped, woodland, wetlands, oil well, billboard
Future Land Use Map	High Density Residential

Surrounding Properties

	Zoning	Use	Future Land Use
North	SR Suburban Residential, n/a	Single-family residential, I-96	Commercial, n/a
East	HS Highway Service, n/a	Commercial, I-96	Commercial, n/a
South	UR Urban Residential, HS Highway Service	Commercial, Multiple-family residential, Undeveloped	Commercial, High Density Residential
West	SR Suburban Residential, ERS1 Existing Residential Subdivision	Single-family residential, Undeveloped woodlands	Commercial, High Density Residential

The preliminary site plan review report identified a number of site plan items to be corrected as part of the final site plan that is submitted. There are no additional comments related to the special use permit.

MULTIPLE-FAMILY DEVELOPMENT STANDARDS

Specific standards for multiple-family residential developments are defined in §17.21 Multiple-Family Developments. Some developmental standards have been modified as part of the original planned unit development approval.

	Required	Proposed	Complies
Zoning District	UR Urban Residential *(special land use)*	UR Urban Residential with conditions	Yes
Density	10 units per acre maximum	~ 2.2 units per acre	Yes
Access	Major thoroughfare	Peavy	Unknown
Buffering	Along single-family districts and non-residential districts	Unknown	Unknown
Congestion/ Traffic Flow	Minimize congestion and interference with normal traffic flow	Unknown	Unknown
Street/ Driveway Materials	All-weather road surface	Asphalt	Yes
Dwelling Unit Access	150 feet from drive or street maximum	< 35 feet	Yes
Residential Structure Setbacks	30 feet between façades with openings, 20 feet between façades without openings	30 feet +	Likely
Lot Coverage	30 percent maximum	10.9 percent	Yes
Public Sewer	Public sewer required	Public sewer shown	Likely
Drainage	Adequate drainage provided	Several detention ponds shown	Likely
Open Space	10 percent of site or 2,000 square feet per unit minimum	Unknown	Likely
Parking Lighting	Off-street parking areas adequately lit	Unknown	Unknown

Roadway and Driveway Width	One-way: 13 feet, Two-way: 24 feet, Driveways: 10 feet minimum	Roads: 24 feet, Unknown	Yes, Likely
Utility Location	Underground	Underground	Yes
Other Uses	Office space, Laundry, Auxiliary storage, Recreation areas	Unknown	Likely
Height	35 feet maximum, taller allowed based on firefighting capacity	22.3 feet	Yes

Items to be Addressed: *Confirmation from the Township Engineer and/or Livingston County Road Commission that Peavy is considered a major thoroughfare.*

Landscaping to be reviewed during final site plan. Additional screening beyond what the minimum required is recommended along the project boundary with developed single-family properties to the west.

Confirmation from the Township Engineer and/or Livingston County Road Commission that the proposed development will not result in significant congestion or interference with normal traffic flow. If any improvements are necessary to maintain current levels of service, those improvements should be included in the final site plan.

Confirmation by Township Engineer/sewer authority that adequate capacity exists for sanitary sewer system connection.

Confirmation by the Township Engineer that the site is likely to accommodate an appropriate stormwater management system. Details to be reviewed as part of the final site plan.

Confirmation of any likely but unknown standards as part of final site plan review.

DECISION CONSIDERATIONS

Special land use approval is required for the proposed multiple-family development. The Basis for Determination are outlined in §16.05(A) General Standards.

It appears that many of the criteria are satisfied or could be satisfied. For some criteria, additional information may be necessary, specifically: adequacy of public facilities and services, preservation of landscaping in its natural state, and impact of lighting.

Although some of this information is usually provided as part of final site plan review, they are required as part of special land use review to ensure the use is compatible with the adjacent area, natural environment and public services and facilities.

The Planning Commission can postpone to request additional information or may make a recommendation with conditions.

The special use permit process is outlined in Article XVI Special Use Permits.

The Planning Commission reviews special use permits at a public hearing and makes a recommendation to the Township Board, which makes the final decision.

In order to approve a special use permit, all of the bases of determination must be found to be true. These bases are defined in §16.05(A) General Standards and are explored below.

The comments below are based on information provided in the application and through research. Additional information may be discovered or provided at the Planning Commission meeting.

1. Be harmonious with and in accordance with the general principles and objectives of the Comprehensive Plan of the Township.

   The Future Land Use Map in the Master Plan calls for the proposed multiple-family project site to be commercial. A conditional zoning map amendment to UR Urban Residential was adopted by the Township in 2023, based on information that it would not be possible for the site to access Pinckney/D-19, making commercial use of the site more challenging and less desirable.

   The proposed use would be consistent with the higher residential densities in the area noted in the Master Plan, which are based on proximity to Howell and the availability of public utilities.

2. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

   The proposed multiple-family project will be consistent in design and character with the original Meadows development immediately to the south.

   It will be bordered on the north by Interstate 96 and to the east by a commercial area.

   The area immediately to the west of the project site has single-family dwellings. The proposed project will appear to be more intense than these existing dwellings. However, the overall project provides only slightly more units per acre (2.2) than the developed area (1.3). Additional buffering beyond what the minimum required in the Zoning Ordinance can be provided between this area and the proposed development to improve harmony.

3. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will substantially improve property in the immediate vicinity and in the community as a whole.

   The proposed use is not likely to create hazardous or disturbing conditions beyond what already developed residential areas provide. The project will preserve a significant portion of the site in an undeveloped state, providing habitat for wildlife.

The proposed use would be less intensive and impactful than previously envisioned commercial uses.

4. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.

   The project will have a single entrance from Peavy to the west and an emergency access from the development to the south. We defer comment to the Township Engineer, Livingston County Road Commission, and Fire Inspector as to the adequacy of the streets to the project, including the access across the drain to several dwelling units.

   We are not aware of any concerns raised by police or fire officials related to availability of services. Hydrants and fire lane signs will be required throughout the developed area of the site consistent with fire code.

   The project will provide stormwater management systems which will discharge into a county drain that runs through the project site. We defer additional comment to the Township Engineer and Livingston County Drain Commissioner.

5. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

   It does not appear that the proposed multiple-residential use would be detrimental to nearby residents or properties if conditions noted in the preliminary site plan recommendation are satisfied. The propose development will have fewer units that allowed, so the traffic and other impacts would be less than allowed by the Zoning Ordinance. We defer additional comments on traffic generation and any necessary improvements to the Township Engineer and Livingston County Road Commission.

6. Meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.

   The proposed multiple-family residential use is listed as a special use permit in the (UR) Urban Residential district. The Planning Commission forwarded the preliminary site plan with conditions, which indicates the proposed use meets or would meet, with conditions, the established standards for multiple-family residential uses.

7. Ensure that landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications, which result in maximum harmony with adjacent areas.

   The applicant has stated that the area of the project site to be developed will be mass graded. That means all of the natural features, including vegetation, soils, and topography, would be disturbed. However, a significant portion of the site will remain in an undeveloped state.

8. Ensure that special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

   The project will provide stormwater management systems that will discharge into a county drain that runs through the project site. Although full engineering is generally completed as part of or following the final site plan, it appears likely that project site will adequately accommodate stormwater management without adversely impacting neighboring properties. We defer additional comment to the Township Engineer and Livingston County Drain Commissioner.

9. Ensure that all exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

   The preliminary site plan does not include any information about exterior lighting. This information should be included in the final site plan. Special use permit approval should be conditioned on all general lighting being dark-sky compliant and any lights facing the exterior of the project located or designed to be deflected away from adjacent properties and streets.

10. Meet the site plan review requirements of Article XVIII. If the applicant chooses to submit a preliminary site plan, the special use permit may also be considered preliminary.

    The applicant submitted a preliminary site plan, which has already been reviewed by the Planning Commission and forwarded with a favorable recommendation with conditions to the Township Board. Special use permit approval should be conditioned on approval of a final site plan.

11. Conform to all applicable state and federal requirements for that use.

    This should be a condition of approval.

PETITION TIMELINE

Conditional zoning map amendment approved in 2023.

The application for special use permit and preliminary site plan was submitted on August 14, 2024.

Preliminary site plan and special use permit reviewed by the Planning Commission at its September 24, 2024, meeting and postponed to allow the applicant an opportunity to add missing information and make revisions to the plans.

Revised preliminary site plan submitted on November 10, 2024.

Preliminary site plan application reviewed by the Planning Commission at its November 26, 2024, meeting and forwarded with a favorable recommendation with conditions.

The special use permit public hearing will be held by the Planning Commission at its December 17, 2024, meeting.

CONCLUSION

The Planning Commission should review the information available and determine if the standards and criteria are satisfied or would be satisfied with conditions or direct the applicant to provide additional information.

The application for the preliminary site plan and special land use of Meadows North is generally complete. This report notes recommendations for potential modifications and conditions. It is likely that they can be addressed as part of final site plan review.

Additional reviews by the Township Engineer, various Livingston County agencies, and state agencies should also be considered as part of review.

For special use permits, the Planning Commission provides a recommendation to the Township Board. The Township Board is the deciding authority.

We look forward to helping facilitate this process at the meeting.

Zach Michels

Quality Zoning

Dexter, MI

MARION TOWNSHIP

ZONING ORDINANCE TEXT AMENDMENT

UTILITY-SCALE SOLAR ENERGY FACILITIES

AN AMENDMENT TO THE MARION TOWNSHIP ZONING ORDINANCE TO ESTABLISH SPECIFIC STANDARDS FOR UTILITY-SCALE SOLAR ENERGY FACILITIES; ADD DEFINITIONS RELATED TO UTILITY-SCALE SOLAR ENERGY FACILITIES; AND AMEND THE TABLE OF CONTENTS ACCORDINGLY.

SECTION 1. AMENDMENTS TO ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES

ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL *LAND USES IS HEREBEY AMENDED BY THE REPLACEMENT OF THE CURRENT §17.35 UTILITY SOLCAR ENERGY FACILITES WITH A NEW §17.35 UTILIT-SCALE SOLAR ENERGY FACILITES, WHICH SHALL READ AS FOLLOWS:*

Section 17.35 Utility-Scale Solar Energy Facilities

A. Intent and Purpose: The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Solar Energy Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.

B. Locational Requirements: Utility-Scale Solar Energy Facilities are subject to the locational requirements below.

1. Utility-Scale Solar Energy Facilities are permitted by special use permit in the SFO Solar Farm Overlay District.
2. Spacing. : Utility-Scale Solar Energy Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility-Scale Solar Energy Facility.

C. Site Requirements: Utility-Scale Solar Energy Facility sites shall meet the site standards below.

1. Site Composition: The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Solar Energy Facility.
2. Lot Area: The site shall have a total net lot area of at least forty (40) acres and no more than one thousand (1,000) acres.
3. Access: Utility-Scale Solar Energy Facilities shall meet the access standards below.
   a) Road or Easement: The site, all fenced compounds, and every solar array shall have direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and width of at least thirty-three (33) feet.
   b) Access Drive Material: Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.
   c) Access Drive Maintenance: Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.

d) Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.

e) Gates and Doors: All access gates and doors to Utility-Scale Solar Energy Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.

4. Setbacks: Solar panels, fenced compounds, and electrical equipment shall meet the setback standards below.

a) Measurement: Setbacks from solar panel arrays shall be measured horizontally from the edge of the array.

b) Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.

c) Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.

d) Solar Energy Systems: Solar energy systems and related accessory structures shall meet the setbacks in the table below.

Setback from	Distance
Non-participating property lines	100 feet
Occupied buildings on non-participating properties	500 feet
Occupied buildings on participating properties	500 feet
Lakes, rivers, creeks, and similar bodies of water and Wellhead Protection Areas	100 feet
Road rights-of-way	100 feet

5. Height: Solar panel components must not exceed a maximum height of twenty-five (25) feet above ground when the arrays are at full tilt.

6. Lighting: Lighting shall be limited to inverter or substation locations only and shall comply with §14.04(E) Lighting.

7. Solar Arrays: Solar Arrays within a Utility-Scale Solar Energy Facility shall meet the design standards below.

a) Consistent: All solar arrays within the facility shall be of the same appearance.

b) Good Condition: All solar arrays shall be maintained in good condition at all times, consistent with or better than industry standards.

c) Certification: Solar array components shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), International Electrotechnical Commission (IEC), or other similar certification organization.

8. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Solar Energy Facility shall meet the standards below. .

a) Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Solar Energy Facility shall not be detected on any participating or non-participating properties

1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the Township at the applicant's expense.

2) Report: A report of the tests shall be provided to the owners of all property included in the study area.

3) Permission: The applicant/landowner shall seek written permission from property owners prior to conducting testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property included in the list of project parcels shall not refuse the stray voltage testing.

b) Underground: Wiring shall be underground, except for power switchyards or the area within a fenced substation. When the Township finds underground wiring is not feasible due to soil or water conditions the above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

c) Depth: Wiring shall be located at a depth to prevent any damage from freezing or frost, to prevent interference with drain tiles, and at a depth that complies with current National Electrical Code standards.

d) Interference: Wiring shall be located and designed to not cause interference with wired or wireless communication systems.

e) Armoring: Concrete armoring techniques shall be used at every location where wiring crosses a county drain, river, water line, or sewer line.

f) Marking: Permanent, visible markers or tracing wires shall be installed to indicate the location of wiring.

g) Drain Tiles: Wiring shall be located to minimize conflict with drain tiles.

9. Drain Tiles: Drain tiles within the Utility-Scale Solar Energy Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below.

a) Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the Township for baseline documentation on tile conditions.

b) Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the Township.

c) Repairs: Damage drain tiles shall be repaired within sixty (60) days of discovery. The Township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the Township.

d) Inspection: The Township reserves the right to have a Township official or other agent present at the time of repair.

10. Fire Suppression: A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Solar Energy Facility, including the solar arrays, electrical equipment, and transformers.

a) Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the Township, of the fire suppression system.

b) Fire Authority: The fire suppression system shall be reviewed and approved by the Township's fire authority.

c) Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the Township.

11. Groundcover: Utility-Scale Solar Energy Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.

a) PA 116 Lands: Land within the project area that are enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.

b) Non-PA 116 Lands: Land within the project that are not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:

1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites (www.pollinators.msu.edu);

2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;

3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or

4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.

c) Alternative Ground Cover: The Township may approve or require alternative ground cover upon finding it is not feasible to provide groundcover as defined above.

d) Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.

e) Invasive and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.

12. Fencing: Utility-Scale Solar Energy Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.

a) Height: The fence shall be at least seven (7) feet tall.

b) Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.

c) Fence Type: The fence shall be a woven agricultural-style fence. The Township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.

d) Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.

e) Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.

f) Wildlife Considerations: The Township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.

g) Alternative Fencing: Alternate fencing may be approved by the Township upon a finding that the alternative provides adequate access control and visual screening.

13. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this Ordinance.

D. Buffering Requirements: Utility-Scale Solar Energy Facilities shall provide buffering described below.

1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.

a) Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The Township may consider an alternative landscape buffer as a part of special use permit approval, provided the alternative buffer provides adequate screening.

b) Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.

c) Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be shall be replaced at the next appropriate planting season.

d) Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The Township may require or consider alternative evergreen species as part of special use permit approval, provided the alternative species are more appropriate for the local conditions or are desirable due to disease or pest.

2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted in a manner consistent with these standards at the next appropriate planting season.

E. Performance Standards: Utility-Scale Solar Energy Facilities shall meet the performance standards below.

1. Compliance: Utility-Scale Solar Energy Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.

2. Sound: The sound generated by a Utility-Scale Solar Energy Facilities must meet the sound standards of this Ordinance and the additional standards below.

a) Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.

b) Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.

c) Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.

d) Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.

e) Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.

f) Continued Compliance: The sound level by a Utility-Scale Solar Energy Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.

3. Airport Impact: Utility-Scale Solar Energy Facilities must be reviewed using the current Solar Glare Hazard Analysis Tool (SGHAT) available through Sandia National Laboratories or a commercially-available equivalent. The SGHAT will be used to ensure that airports and those who use them will not be affected by unwanted visual or ocular impacts. The process is designed to save costs and increase public safety.

a) Adverse Impacts: The study shall determine if there are any potential adverse effects on any registered airfield within ten (10) miles of the project. Effects noted, but not exclusively, should include any possible decreased safety and utility.

b) Determination of No Hazard: Utility-Scale Solar Energy Facilities must obtain a Determination of No Hazard (from the Federal Aviation Administration. A Determination of No Hazard does not eliminate the need for the SGHAT study, nor does it in any way eliminate the standard for glare on roadways or non-participating parcels.

c) Timing: The Determination of No Hazard must be obtained before breaking ground on any portion of the Utility-Scale Solar Energy Facility. A copy must be submitted to the Township.

d) Safety and Utility Impacts: Utility-Scale Solar Energy Facilities that impacts safety or utility of any registered airfield shall not be permitted.

4. Reports: In addition to other reports identified in this Ordinance, the owner or operation shall submit the following reports during the operation of Utility-Scale Solar Energy Facilities.

a) Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.

b) Operation. A report shall be provided to the zoning administrator if the Utility-Scale Solar Energy Facility or any of its components are no longer being used. .

c) Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Solar Energy Facility that did or could have caused harm to life or property, including calls for service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.

5. Safety: Utility-Scale Solar Energy Facilities shall be subject to the safety standards below.

a) Warning Signs: The manufacturer's or installer's identification and appropriate warning signs shall be posted on or near each solar array and electrical equipment in a clearly visible manner.

b) Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.

c) Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Solar Energy Facility, without distribution restraints, will be provided before construction commences. These will be kept at the Township Hall and other locations deemed necessary by the Township or local first responders. The manual should include standard details for an industrial site such as materials, chemicals, fire, access, and safe distances during a Utility-Scale Solar Energy Facility failure, processes in emergencies, etc.

6. Interference: Utility-Scale Solar Energy Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any known interference immediately and provide proof that the interference has been resolved within ninety (90) days.

7. Complaint Resolution: Utility-Scale Solar Energy Facilities shall provide a complaint resolution process, as described below.

a) Signs: Signs with contact information to report complaints related to the Utility-Scale Solar Energy Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.

b) Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this Ordinance.

c) Contact: A twenty-four (24) hour toll-free number shall be established and maintained by the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.

d) Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by Township Officials.

e) Notification: The zoning administrator shall receive notification of all complaints received. An annual report shall be submitted to the Township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.

f) Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days. The zoning administrator shall receive notification of all complaints received.

g) Adjudication: The operator or its assigns reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.

8. Insurance and Performance Guarantees: Utility-Scale Solar Energy Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this Ordinance or other entities.

a) General Liability Insurance: Utility-Scale Solar Energy Facilities shall have and maintain general liability insurance of at least ten million ($10,000,000) dollars. The Township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.

b) General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the Utility-Scale Solar Energy Facility. At the time of the application, the applicant shall submit two (2) third-party

contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Solar Energy Facility, and the performance guarantee shall be the higher of the two (2) bids. The Township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this Ordinance in the event that the site improvements for the Utility-Scale Solar Energy Facility are not maintained or the Utility-Scale Solar Energy Facility fails to make operational changes to correct an operational violation.

c) Road Performance Guarantee: A road performance guarantee shall be provided before construction comments in a form acceptable to the Township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surely bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars ($1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The Township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.

d) Complaint Inspection Escrow: An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established before construction commences. The escrow account shall be used by the Township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the Township Treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars ($15,000). When the escrow account balance is below five thousand dollars ($5,000), the Township shall notify the responsible part, who must replenish the escrow account to the amount of fifteen thousand dollars ($15,000) within a period of forty-five (45) calendar days.

9. Dust Control: Reasonable dust control measures shall be taken during construction and operation.

10. Plants and Grasses: Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The Township may approve a taller height upon a finding that it will not result in a nuisance.

11. Wildlife: Utility-Scale Solar Energy Facilities shall be designed, sited, and operated in a manner to minimize impact on wildlife.

a) Wildlife Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Special Scrutiny: Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

d) US Fish and Wildlife Service. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.

e) Post-Construction Mortality Study: A post-construction wildlife mortality study may be required. The analysis should indicate if such a study is determined unnecessary and the reasons why such a study does not need to be conducted. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

12. Environment: Utility-Scale Solar Energy Facilities shall be designed, sited, and operated to minimize impact on the environment.

a) Environmental Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Environmental Laws: Utility-Scale Solar Energy Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).

d) Containment System: A containment system shall surround any transformers in case of hazardous waste or oil spills.

e) Removal: All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

f) Responsibility: The Utility-Scale Solar Energy Facility owner, operator, and property owner shall be responsible, jointly and severally, for mitigating erosion, flooding, and all other environmental impacts resulting from the Facility.

13. Emergency Action Plan: Utility-Scale Solar Energy Facilities shall have an Emergency Action Plan to identify actions to be taken in event of an emergency.

a) Fire Suppression: The Emergency Action Plan must include a fire suppression plan, including the technology to be used and the training and equipment to be provided to Township or other firefighters before the facility becomes operational.

b) Special Equipment and Training: The Emergency Action Plan shall identify special equipment and training that is required for emergency response to the Utility-Scale Solar Energy Facility.

c) Clean-up: The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.

d) Emergency Training: Before the Utility-Scale Solar Energy Facility is operational, it must provide the necessary training, equipment, or agreements specified in the Emergency Action Plan to the Township or other emergency personnel. All training must be consistent with current industry standards.

e) Public Record: The Emergency Action Plan will be a public record.

F. General Provisions: Utility-Scale Solar Energy Facilities shall be subject to the general provisions below.

1. Damage Repair: The owner, operator, and property owner shall be responsible, jointly and severally, for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to the Utility-Scale Solar Energy Facility.

2. Mixed Facilities: Utility-Scale Solar Energy Facilities may be col-located with other renewable energy facilities, such and Utility Battery Energy Storage Facilities or Utility Wind Energy Conversion Facilities. Review and approval are required for each use.

3. As-Builts: The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.

4. Repowering or Modifications: Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this Ordinance as it exists at time of this new application.

5. Transfer or Sale: In the event of a transfer or sale of a Utility-Scale Solar Energy Facility, the new owner or operator must notify the Township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

G. Decommissioning, Abandonment, and Restoration: Following the operational life or abandonment of a Utility-Scale Solar Energy Facility, the site shall be decommissioned and restored as outlined below.

1. Decommissioning Plan: The applicant shall have a third-party qualified professional, acceptable to the Township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The decommissioning security shall be paid in cash to the Township.

a) Anticipated Life: The decommissioning plan shall describe the anticipated life span of the Utility-Scale Solar Energy Facility and its components.

b) Decommissioning Costs: The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.

c) How Paid: The decommissioning plan shall provide a description of how decommissioning costs will be paid.

d) Regular Updating: The decommissioning plan shall be updated on a regular, period basis at of at least once every three (3) years. Additional security may be required to account for increased anticipated decommissioning costs during the preceding three (3) years.

2. Abandonment: Utility-Scale Solar Energy Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the Township upon finding that the delay does not create a hazardous condition and the applicant has demonstrate a good faith effort to continue operation.

3. Damage: Any Utility-Scale Solar Energy Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the Township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.

4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the Township.

5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.

6. Chemical Analysis and Boring: A chemical analysis and boring of the soil, as recommended by the Township engineer shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Solar Energy Facility.

   a) Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or are lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, are identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.

   b) Report: A report of the soil chemical analysis must be provided to the Township within seven (7) days. If any chemical entity, organic or inorganic compounds, are above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate Federal and State regulatory agencies within seven (7) days of receiving the testing report showing a violation.

   c) Violation Resolution: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Solar Energy Facility site. The reclamation plan must meet all Federal and State regulations for the reclamation of a contaminated site. The plan must be approved by the Township Board and the Township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Solar Energy Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.

   d) Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process.

   e) Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the township engineer and the Township Board.

7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted by the Township if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.

8. Land Balancing: If land balancing is required, all top soil will be saved and spread evenly over balanced area.

9. Township Action: The Township may remove any abandoned or unsafe Utility-Scale Solar Energy Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.

10. Attorney Costs: The owner, operator, and property owner shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the Township has to enforce removal.

11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.

12. Disposal: All structures, equipment, and waste shall be removed from the site and disposed of properly.

H. Application Materials: Applications for Utility-Scale Solar Energy Facilities must submit the following additional materials with the Special Land Use Application. These are in addition to information required for site plan and special use permit applications.

1. Identification: The name and address in full of the applicant, developer, owner, operator, and property owners, a statement that the applicant is the owner involved in the application, and any additional contact information shall be submitted.

2. Application Dating: Each application for a Utility-Scale Solar Energy Facility shall indicate the date the application is received by the Township.

3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Solar Energy Facility.

4. Project Description: A general description of the proposed project, including name-plate generating capacity and an anticipated construction schedule shall be submitted.

5. Solar Arrays: A complete description of the proposed technology to include type of solar panel and system, maximum height, fixed mounted versus tracking, number of panels, and angles of orientation.

6. Conceptual Plan: A graphical computer-generated depiction of how the Utility-Scale Solar Energy Facility will appear from all directions shall be submitted.

7. Documentation: A complete set of photos and video of the entire development area, including construction access roads, as it exists before the application date shall be submitted.

8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.

9. Power Purchase Agreement: A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Solar Energy Facility shall be submitted.

10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Solar Energy Facility, the Township, and the participating property owners shall be submitted.

11. Certifications: Certification shall be submitted that the Utility-Scale Solar Energy Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil

Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL324.36501 et. seq.).

12. Farmland Preservation Approval: Utility-Scale Solar Energy Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.

13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Solar Energy Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.

14. Drain Commission: Proof of approval or conditional approval by and the Livingston County Drain Commission for any Utility-Scale Solar Energy Facility that has participating properties with a county drain or propose improvements within a county drain easement.

15. Manufacturers' Safety Data Sheet(s): Documentation include the type and quantity of all materials used in the operation of all equipment shall be submitted.

16. Wildlife Impact: Copy of the Wildlife Impact Analysis shall be submitted.

17. Environmental Impact: Copy of the Environmental Impact Analysis shall be submitted.

18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CEC) of the soil involved in the project must be completed as recommended by the Township engineer.

19. Complaint Resolution Protocol: Copy of Complaint Resolution Protocol shall be submitted.

20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.

21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.

22. Indemnification: An attestation that the applicant, owner, operator, and property owners will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Solar Energy Facility, which is subject to the Township's review and approval, shall be submitted.

23. Right-to-Enter: Submission of an application for a Utility-Scale Solar Energy Facility grants the Township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Solar Energy Facility at any at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the applicant, owner, or operator.

24. Additional Information: Any additional information, studies, or documentation requested by the Township or its agents that are deemed necessary to determine compliance with this Ordinance and other applicable laws and regulations.

I. **Utility-Scale Solar Energy Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to any Utility Solar Energy Facility with a name-plate capacity of 50 megawatts or more. These provisions below shall control to the extent that they conflict with other provisions in §17.35 Utility-Scale Solar Energy Facilities, these provisions control as to any Utility Solar Energy Facility with a name-plate capacity of 50 megawatts or more. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to any Utility Solar Energy Facility with a nameplate capacity of less than 50 megawatts.. All provisions in §17.35 Utility-Scale Solar Energy Facilities that do not conflict with this subsection remain in full force and effect.

1. Setbacks: Utility-Scale Solar Energy must comply with the minimum setback requirements in the table below, with setback distances measured from the nearest edge of the perimeter fencing of the facility.

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. Fencing: Fencing for the Utility-Scale Solar Energy Facilities must comply with the latest version of the National Electric Code as of November 29, 2024, or as subsequently amended.

3. Height: Solar panel components must not exceed a maximum height of twenty-five (25) feet above ground when the arrays are at full tilt.

4. Sound: The Utility-Scale Solar Energy Facility must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

5. Lighting: The Utility-Scale Solar Energy Facility must implement dark sky-friendly lighting solutions.

6. Environmental Regulations: Utility-Scale Solar Energy Facilities must comply with applicable state or federal environmental regulations.

7. Host Community Agreement: The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Solar Energy Facility owner must pay the Township two thousand dollars ($2,000.00) per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the Township and the applicant.

8. PA 233 Requirements: The Utility-Scale Solar Energy Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.

9. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Solar Energy Facility processed using the other provisions of §17.35 Utility-Scale Solar Energy Facilities, even if PA 233 of 2023 is in full effect.

SECTION 2. AMENDMENT OF ARTICLE III DEFINITIONS

ARTICLE III DEFINITIONS IS HEREBY AMENDED WITH THE REPLACEMENT OF THE CURRENT SOLAR ENERGY DEFINTIONS TO BE REPLACED WITH THE FOLLOWING, WHICH SHALL READ AS FOLLOWS:

Solar Energy: The following definitions shall apply in the application of this Ordinance.

1. Abandonment: Any solar energy system or facility that is no longer producing power.
2. Building Integrated Photovoltaics (BIPVs): A private or utility solar energy system that is integrated into the structure of a building, such as solar roof tiles or solar shingles.
3. Decommission: To remove or retire a solar energy system or facility from active service.
4. Ground-mounted Solar Energy System: A private or utility solar energy system that is not attached to or mounted on any roof or exterior wall of any principal or accessory building.
5. Height: The height of a solar energy system, measured vertically from the adjacent grade to its highest point at maximum tilt.
6. Inhabited Structure: Any existing structure usable for living or non-agricultural commercial purposes, including, but not limited to: working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.
7. Non-participating Property: A property that is not subject to a Utility-Scale Solar Energy Facility lease or easement agreement at the time an application is submitted for a special use permit for a Utility-Scale Solar Energy Facility.
8. Participating Property: A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a special use permit application for a Utility-Scale Solar Energy Facility.
9. Photovoltaic Array (PV Array): A device designed to collect and transform solar energy into electricity.
10. Private Solar Energy System: A Solar Energy System used exclusively for private purposes and not used for commercial resale of energy, except for the sale of surplus electrical energy back to the electrical grid.
11. Repowering: Replacing or upgrading Solar Energy System to increase power rating of panels or Solar Energy System accessory structures within the approved project footprint. This does not apply to regular maintenance.
12. Roof- or Building-mounted Solar Energy System: A private or utility solar energy system that is attached to or mounted on any roof or exterior wall of any principal or accessory building but excluding BIPVs.
13. Solar Energy System: A device designed to collect and transform solar energy into electricity, including, but not limited to, PV arrays, racks, inverters, transformers, wiring, batteries, and electrical system components.
14. Solar Farm: See Utility-Scale Solar Energy Facility.
15. Utility-Scale Solar Energy Facility: A facility with solar energy systems where the principal design, purpose, or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity with a name-plate capacity of at least one hundred (100) megawatts.

SECTION 3. AMENDMENT OF ARTICLE XII SOLAR FARM OVERLAY DISTRICT

§12.01(B) PERMITTED ACCESSORY USES IS HEREBY AMENDED TO READ AS FOLLOWS:

1. Accessory uses or structures clearly incidental to the operation of an approved Utility-Scale Solar Energy Facility.

§12.01(C) USES PERMITTED BY SPECIAL USE PERMIT IS HEREBY AMENDED TO READ AS FOLLOWS:

1. Utility-Scale Solar Energy Facilities.

SECTION 4. AMENDMENT OF TABLE OF CONTENTS

THE TABLE OF CONTENTS IS HEREBY AMENDED FOR CONSISTENCY WITH THE ABOVE AMENDMENTS AND TO ACCOMMODATE REPAGINATION.

SECTION 5. SEVERABILITY AND VALIDITY

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

SECTION 6. REPEALER

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 7. EFFECTIVE DATE

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).

MARION TOWNSHIP

ZONING ORDINANCE TEXT AMENDMENT

UTILITY-SCALE WIND ENERGY CONVERSION FACILITIES

AN AMENDMENT TO THE MARION TOWNSHIP ZONING ORDINANCE TO ESTABLISH SPECIFIC STANDARDS FOR UTILITY-SCALE WIND ENERGY FACILITIES; ADD DEFINITIONS RELATED TO UTILITY-SCALE SOLAR ENERGY FACILITIES; AND AMEND THE TABLE OF CONTENTS ACCORDINGLY.

SECTION 1- AMENDMENTS TO ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES

ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES IS HEREBY AMENDED BY THE ADDITION OF A NEW §17.37 UTILITY-SCALE WIND ENERGY CONVERSION FACILITIES, WHICH SHALL READ AS FOLLOWS:

Section 17.37 Utility-Scale Wind Energy Conversion Facilities

A. Intent and Purpose: The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Wind Energy Conversion Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; and ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.

B. Locational Requirements: Utility-Scale Wind Energy Conversion Facilities are permitted by special use permit in the SFO Solar Farm Overlay District.

C. Site Requirements: Utility-Scale Wind Energy Conversion Facility sites shall meet the site standards below.

1. Site Composition: The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Wind Energy Conversion Facility.

2. Lot Area: The site shall have a total net lot area of at least fifty (50) acres and no more than one thousand (1,000) acres.

3. Access: Utility-Scale Wind Energy Conversion Facilities shall meet the access standards below.

   a) Road or Easement: The site, all fenced compounds, and every wind turbine shall have direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and width of at least thirty-three (33) feet.

   b) Access Drive Material: Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.

   c) Access Drive Maintenance: Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.

   d) Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.

   e) Gates and Doors: All access gates and doors to Utility-Scale Wind Energy Conversion Facility compounds, electrical equipment, and wind turbines shall be lockable and kept secured at all times when service personnel are not present.

f) Towers: Wind turbines shall not be climbable for a height of twenty (20) feet above the ground.

4. Setbacks: Wind turbines, fenced compounds, and electrical equipment shall meet the setback standards below.

a) Measurement: Setbacks from wind turbines shall be measured horizontally from the center of the tower base.

b) Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.

c) Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.

d) Wind Turbines: Wind turbines shall be meet the setbacks in the table below.

Setback from	Distance
Non-participating property lines	2.5 times wind turbine height
Occupied buildings on non-participating properties	3 times the wind turbine height
Occupied buildings on participating properties	1.5 times the wind turbine height
Lakes, rivers, creeks and similar bodies of water	1,250 feet
Adjacent wind turbine	1.5 times wind turbine height
Road rights-of-way	1.5 times wind turbine height

5. Height: Wind turbines shall have a maximum height of three hundred (300) feet.

6. Lighting: Lighting for Utility-Scale Wind Energy System Facilities shall comply with§14.04(E) Lighting and the standards below.

a) Safe Operation: Lighting of the facility is limited to the minimum light necessary for safe operation.

b) Federal Aviation Administration: Wind turbines shall only be illuminated to the minimum extent required by the Federal Aviation Administration.

c) Nature of Light: Wind turbines shall not have strobe or pulse lighting.

d) Synchronized: All wind turbine lighting shall be synchronized to illuminate at the same time.

e) Shielded: Wind turbine lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

7. Wind Turbines: Wind turbines within a Utility-Scale Wind Energy System Facility shall meet the design standards below.

a) Consistent: All wind turbines within the facility shall be of the same appearance.

b) Monopole: All wind turbines shall be of a monopole design.

c) Appearance: All wind turbines must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. The tower, nacelle, and blades must be the same color. Advertisements, graphics, or striping are not permitted on wind turbines. The applicant is encouraged to select anti-icing paint that prevents the formation of ice on the surface of the turbine's blades.

d) Rotation: All wind turbine blades within a Utility-Scale Wind Energy Conversion Facility shall rotate in the same direction.

e) Good Condition: All wind turbines shall be maintained in good condition at all times, consistent with or better than industry standards.

f) Deicing: All wind turbines must be equipped with technology that automatically deices the turbine blades. The system must detect ice and heat the blades, such as through the use of built-in carbon heating mats or through the circulation of hot air. Turbine blades shall use stick-free surface coatings to the maximum extent practical.

g) Clearance: The swept area shall have a ground clearance of at least one hundred (100) feet and a clearance of at least one hundred (100) feet from any structure.

h) Braking: All wind turbines must be equipped with both an automatic and a manual braking or equivalent device, capable of stopping the wind turbine's operation in high winds with or without supervisory control and data acquisition control. The automatic braking system must be effective during complete grid power failure when the wind turbine is unable to communicate with supervisory control and data acquisition control or receive power.

i) Certification: All wind turbines shall be approved by Underwriters Laboratories, Det Norske Veritas, Germanischcher Lloyd Wind Energie, or an equivalent third party.

8. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Wind Energy Conversion Facility shall meet the standards below. .

a) Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Wind Energy Conversion Facility shall not be detected on any participating or non-participating properties

1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the Township at the applicant's expense.

2) Report: A report of the tests shall be provided to the owners of all property included in the study area.

3) Permission: The applicant/landowner shall seek written permission from property owners prior to conducting testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property included in the list of project parcels shall not refuse the stray voltage testing.

b) Underground: Wiring shall be underground, except for power switchyards or the area within a fenced substation. When the Township finds underground wiring is not feasible due to soil or water conditions the above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

c) Depth: Wiring shall be located at a depth to prevent any damage from freezing or frost, to prevent interference with drain tiles, and at a depth that complies with current National Electrical Code standards.

d) Interference: Wiring shall be located and designed to not cause interference with wired or wireless communication systems.

e) Armoring: Concrete armoring techniques shall be used at every location where wiring crosses a county drain, river, water line, or sewer line.

f) Marking: Permanent, visible markers or tracing wires shall be installed to indicate the location of wiring.

g) Drain Tiles: Wiring shall be located to minimize conflict with drain tiles.

9. Drain Tiles: Drain tiles within the Utility-Scale Wind Energy Conversion Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below.

a) Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the Township for baseline documentation on tile conditions.

b) Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the Township.

c) Repairs: Damage drain tiles shall be repaired within sixty (60) days of discovery. The Township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the Township.

d) Inspection: The Township reserves the right to have a Township official or other agent present at the time of repair.

10. Fire Suppression: A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Wind Energy Conversion Facility, including the wind turbines, electrical equipment, and transformers.

a) Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the Township, of the fire suppression system.

b) Fire Authority: The fire suppression system shall be reviewed and approved by the Township's fire authority.

c) Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the Township.

11. Groundcover: Utility-Scale Wind Energy Conversion Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.

a) PA 116 Lands: Land within the project area that are enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.

b) Non-PA 116 Lands: Land within the project that are not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:

1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites (www.pollinators.msu.edu);

2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;

3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or

4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.

c) Alternative Ground Cover: The Township may approve or require alternative ground cover upon finding it is not feasible to provide groundcover as defined above.

d) Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.

e) Invasives and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.

12. Fencing: Utility-Scale Wind Energy Conversion Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.

a) Height: The fence shall be at least seven (7) feet tall.

b) Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.

c) Fence Type: The fence shall be a woven agricultural-style fence. The Township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.

d) Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.

e) Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.

f) Wildlife Considerations: The Township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.

g) Alternative Fencing: Alternate fencing may be approved by the Township upon a finding that the alternative provides adequate access control and visual screening.

13. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this Ordinance.

D. Buffering Requirements: Utility-Scale Wind Energy Conversion Facilities shall provide buffering described below.

1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.

a) Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The Township may consider an alternative landscape buffer as a part of special use permit approval, provided the alternative buffer provides adequate screening.

b) Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.

c) Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be shall be replaced at the next appropriate planting season.

d) Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The Township may consider alternative evergreen species as part of special use permit approval, provided the alternative species are more appropriate for the local conditions or are desirable due to disease or pest.

2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted in a manner consistent with these standards at the next appropriate planting season.

E. Performance Standards: Utility-Scale Wind Energy Conversion Facilities shall meet the performance standards below.

1. Compliance: Utility-Scale Wind Energy Conversion Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.

2. Sound: The sound generated by a Utility-Scale Wind Energy Conversion Facilities must meet the sound standards of this Ordinance and the additional standards below.

a) Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.

b) Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.

c) Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.

d) Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.

e) Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.

f) Continued Compliance: The sound level by a Utility-Scale Wind Energy Conversion Facilities must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.

3. Flicker and Glint: Reasonable design and operation shall be used to minimize or mitigate flicker and blade glint impacts on non-participating habitable buildings, public roads, and all road intersections.

4. Reports: In addition to other reports identified in this Ordinance, the owner or operation shall submit the following reports during the operation of Utility-Scale Wind Energy Conversion Facilities.

a) Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.

b) Operation. A report shall be provided to the zoning administrator if the Utility-Scale Wind Energy Conversion Facility or any of its components are no longer being used. .

c) Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Wind Energy Facility that did or could have caused harm to life or property, including calls for

service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.

5. Safety: Utility-Scale Wind Energy Conversion Facilities shall be subject to the safety standards below.

a) Warning Signs: The manufacturer's or installer's identification and appropriate warning signs shall be posted on or near each wind turbine in a clearly visible manner.

b) Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.

c) Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Wind Energy Conversion Facility, without distribution restraints, will be provided before construction commences. These will be kept at the Township Hall and other locations deemed necessary by the Township or local first responders. The manual should include standard details for an industrial site such as materials, chemicals, fire, access, and safe distances during a Utility-Scale Wind Energy Conversion Facility failure, processes in emergencies, etc.

6. Interference: Utility-Scale Wind Energy Conversion Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any known interference immediately and provide proof that the interference has been resolved within ninety (90) days.

7. Complaint Resolution: Utility-Scale Wind Energy Conversion Facilities shall provide a complaint resolution process, as described below.

a) Signs: Signs with contact information to report complaints related to the Utility-Scale Wind Energy Conversion Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.

b) Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this Ordinance.

c) Contact: A twenty-four 24) hour, toll-free number shall be established and maintained by the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.

d) Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by Township Officials.

e) Notification: The zoning administrator shall receive notification of all complaints received. An annual report shall be submitted to the Township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.

f) Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days. The zoning administrator shall receive notification of all complaints received.

g) Adjudication: The operator or its assigns reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.

8. Insurance and Performance Guarantees: Utility-Scale Wind Energy Conversion Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this Ordinance or other entities.

a) General Liability Insurance: Utility-Scale Wind Energy Conversion Facilities shall have and maintain general liability insurance of at least ten million ($10,000,000) dollars. The Township

may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.

b) General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the Utility-Scale Wind Energy Conversion Facility. At the time of the application, the applicant shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Wind Energy System Facility, and the performance guarantee shall be the higher of the two (2) bids. The Township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this Ordinance in the event that the site improvements for the Utility-Scale Wind Energy Conversion Facility are not maintained or the Utility-Scale Wind Energy Conversion Facility fails to make operational changes to correct an operational violation.

c) Road Performance Guarantee: A road performance guarantee shall be provided before construction comments in a form acceptable to the Township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surety bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars ($1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The Township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.

d) Complaint Inspection Escrow: An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established before construction commences. The escrow account shall be used by the Township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the Township Treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars ($15,000). When the escrow account balance is below five thousand dollars ($5,000), the Township shall notify the responsible part, who must replenish the escrow account to the amount of fifteen thousand dollars ($15,000) within a period of forty-five (45) calendar days.

9. Dust Control: Reasonable dust control measures shall be taken during construction and operation.

10. Plants and Grasses: Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The Township may approve a taller height upon a finding that it will not result in a nuisance.

11. Wildlife: Utility-Scale Wind Energy Conversion Facilities shall be designed, sited, and operated in a manner to minimize impact on wildlife.

a) Wildlife Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use should be

conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Special Scrutiny: Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

d) US Fish and Wildlife Service. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.

e) Post-Construction Mortality Study: A post-construction wildlife mortality study may be required. The analysis should indicate if such a study is determined unnecessary and the reasons why such a study does not need to be conducted. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

12. Environment: Utility-Scale Wind Energy Conversion Facilities shall be designed, sited, and operated to minimize impact on the environment.

a) Environmental Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Environmental Laws: Utility-Scale Wind Energy Conversion Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).

d) Containment System: A containment system shall surround any transformers in case of hazardous waste or oil spills.

e) Removal: All solid and hazardous waste materials shall be promptly removed from the side and disposed of properly.

f) Responsibility: The Utility-Scale Wind Energy Conversion Facility owner, operator, and property owner shall be responsible, jointly and severally, for mitigating erosion, flooding, and all other environmental impacts resulting from the Facility.

13. Emergency Action Plan: Utility-Scale Wind Energy Conversion Facilities shall have an Emergency Action Plan to identify actions to be taken in event of an emergency.

a) Fire Suppression: The Emergency Action Plan must include a fire suppression plan, including the technology to be used and the training and equipment to be provided to Township or other firefighters before the facility becomes operational.

b) Special Equipment and Training: The Emergency Action Plan shall identify special equipment and training that is required for emergency response to the Utility-Scale Wind Energy Conversion Facility.

c) Clean-up: The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.

d) Emergency Training: Before the Utility-Scale Wind Energy Conversion Facility is operational, it must provide the necessary training, equipment, or agreements specified in the Emergency Action Plan to the Township or other emergency personnel. All training must be consistent with current industry standards.

e) Public Record: The Emergency Action Plan will be a public record.

F. General Provisions: Utility-Scale Wind Energy Conversion Facilities shall be subject to the general provisions below.

1. Damage Repair: The owner, operator, and property owner shall be responsible, jointly and severally, for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to, a Utility-Scale Wind Energy System Facility.

2. Mixed Facilities: Utility-Scale Wind Energy Conversion Facilities may be co-located with other renewable energy facilities, such and Utility Battery Energy Storage Facilities or Utility Solar Farms. Review and approval is required for each use.

3. As-Builts: The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.

4. Repowering or Modifications: Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this Ordinance as it exists at time of this new application.

5. Transfer or Sale: In the event of a transfer or sale of a Utility-Scale Wind Energy System Facility, the new owner or operator must notify the Township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

G. Decommissioning, Abandonment, and Restoration: Following the operational life or abandonment of a Utility-Scale Wind Energy Conversion Facility, the site shall be decommissioned and restored as outlined below.

1. Decommissioning Plan: The applicant shall have a third-party qualified professional, acceptable to the Township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The decommissioning security shall be paid in cash to the township.

a) Anticipated Life: The decommissioning plan shall describe the anticipated life span of the Utility-Scale Wind Energy Conversion Facility and its components.

b) Decommissioning Costs: The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.

c) How Paid: The decommissioning plan shall provide a description of how decommissioning costs will be paid.

d) Regular Updating: The decommissioning plan shall be updated on a regular, period basis of at least once every three (3) years. Additional security may be required to account for increased anticipated decommissioning costs during the preceding three (3) years.

2. Abandonment: Utility-Scale Wind Energy Conversion Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the Township upon finding that the delay does not create a hazardous condition and the applicant has demonstrated a good-faith effort to continue operation.

3. Damage: Any Utility-Scale Wind Energy Conversion Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the Township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.

4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the Township.

5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.

6. Chemical Analysis and Boring: A chemical analysis and boring of the soil, as recommended by the Township engineer shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Wind Energy Conversion Facility.

a) Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or are lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, are identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.

b) Report: A report of the soil chemical analysis must be provided to the Township within seven (7) days. If any chemical entity, organic or inorganic compounds, are above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate Federal and State regulatory agencies within seven (7) days of receiving the testing report showing a violation.

c) Violation Resolution: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Wind Energy Conversion Facility site. The reclamation plan must meet all Federal and State regulations for the reclamation of a contaminated site. The plan must be approved by the Township Board and the Township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Wind Energy Conversion Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.

d) Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process.

e) Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the Township engineer and the Township Board.

7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of

abandonment or decommissioning. An extension may be granted by the Township if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.

8. Land Balancing: If land balancing is required, all top soil will be saved and spread evenly over balanced area.

9. Township Action: The Township may remove any abandoned or unsafe Utility-Scale Wind Energy Conversion Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.

10. Attorney Costs: The owner, operator, and property owner shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the Township has to enforce removal.

11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.

12. Disposal: All structures, equipment, and waste shall be removed from the site and disposed of properly.

H. Application Materials: Applications for Utility-Scale Wind Energy Conversion Facilities must submit the following additional materials with the Special Land Use Application. These are in addition to information required for site plan and special use permit applications.

1. Identification: The name and address in full of the applicant, developer, owner, operator, and property owners, a statement that the applicant is the owner involved in the application and any additional contact information shall be submitted. Each application for a Wind Energy System Facility shall also be dated to indicate the date the application is submitted to Marion Township.

2. Application Dating: Each application for a Utility-Scale Wind Energy Conversion Facility shall indicate the date the application is received by the Township.

3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Wind Energy Conversion Facility.

4. Project Description: A general description of the proposed project, including name-plate generating capacity and an anticipated construction schedule shall be submitted.

5. Wind Turbines and Equipment: A complete description of the proposed technology to be installed at the Wind Energy System Facility to include type of wind turbine and its manufacturer, electrical generation capacity of each wind turbine, total number of wind turbines to be installed, and average distance between each wind turbine.

6. Conceptual Plan: A graphical computer-generated depiction of how the Wind Energy System will appear from all directions shall be submitted.

7. Documentation: A complete set of photos and video of the entire development, including construction access roads, area as it exists before the application date shall be submitted.

8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.

9. Power Purchase Agreement: A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Wind Energy Conversion Facility shall be submitted.

10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Wind Energy Conversion Facility, the Township, and the participating property owners shall be submitted.

11. Certifications: Certification shall be submitted that the Utility-Scale Wind Energy Conversion Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL324.36501 et. seq.).

12. Farmland Preservation Approval: Utility-Scale Wind Energy Conversion Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.

13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Wind Energy Conversion Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.

14. Drain Commission: Proof of approval or conditional approval by and the Livingston County Drain Commission for any Utility-Scale Wind Energy Conversion Facility that has participating properties with a county drain or propose improvements within a county drain easement.

15. Manufacturers' Safety Data Sheet(s): Documentation include the type and quantity of all materials used in the operation of all equipment shall be submitted.

16. Wildlife Impact: Copy of the Wildlife Impact Analysis shall be submitted.

17. Environmental Impact: Copy of the Environmental Impact Analysis shall be submitted.

18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CEC) of the soil involved in the project must be completed as recommended by the Township engineer.

19. Complaint Resolution Protocol: Copy of Complaint Resolution Protocol shall be submitted.

20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.

21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.

22. Indemnification: An attestation that the applicant, owner, operator, and property owners will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Wind Energy Conversion Facility, which is subject to the Township's review and approval, shall be submitted.

23. Right-to-Enter: Submission of an application for a Utility-Scale Wind Energy Conversion Facility grants the Township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Wind Energy Conversion Facility at any at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator.

24. Additional Information: Any additional information, studies, or documentation requested by the Township or its agents that are deemed necessary to determine compliance with this Ordinance and other applicable laws and regulations.

I. **Utility-Scale Wind Energy Conversion Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Wind Energy Systems with a nameplate capacity of at least one hundred (100) megawatts. These provisions below shall control to the extent that they conflict with the other provisions of §17.37 Utility-Scale Wind Conversion Facilities as to such Wind Energy Systems. This subsection does not apply if PA 233 of

2023 is repealed, enjoined, or otherwise not in effect. All provisions in §17.37 Utility-Scale Wind Energy Conversion Facilities that do not conflict with this subsection remain in full force and effect.

1. Setbacks: Utility-Scale Wind Energy Conversion Facilities must comply with the minimum setback requirements in the table below, with setback distances measured from the nearest edge of the perimeter fencing of the facility.

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line**[JA1]**

2. Lighting: The Utility-Scale Wind Energy Conversion Facility must implement dark sky-friendly lighting solutions.

3. Sound: The Utility-Scale Wind Energy Conversion Facility must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

4. Environmental Regulations: Utility-Scale Wind Energy Conversion Facilities must comply with applicable state or federal environmental regulations.

5. Host Community Agreement: The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Wind Energy Conversion Facility owner must pay the Township two thousand dollars ($2,000.00) per megawatt of name-plate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the Township and the applicant.

6. PA 233 Requirements: The Utility-Scale Wind Energy Conversion Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.

7. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Wind Energy Conversion Facility processed using the other provisions of §17.37 Utility-Scale Wind Energy Conversion Facilities, even if PA 233 of 2023 is in full effect.

SECTION 2. AMENDMENT OF ARTICLE III DEFINITIONS

§3.02 DEFINITIONS IS HEREBY AMENDED TO ADD THE FOLLOWING ADDITIONS, TO BE ADDED IN ALPHABETICAL ORDER, WHICH SHALL READ AS FOLLOWS:

Cation Exchange Capacity (CEC): The total capacity of a soil to hold exchangeable cations. CEC is an inherent soil characteristic and is difficult to alter significantly. It influences the soil's ability to hold onto essential nutrients and provides a buffer against soil acidification.

Inorganic Compound: Any substance in which two or more chemical elements (usually other than carbon) are combined, nearly always in definite proportions, either naturally occurring or manmade.

Organic Compound: A large class of chemical compounds in which one or more atoms of carbon are covalently linked to atoms of other elements, most commonly hydrogen, oxygen, or nitrogen, either naturally occurring or manmade.

Swept Area: The area that is swept by the wind turbine blade.

Utility-Scale Wind Energy Conversion Facility: A facility with one (1) or more wind turbines that convert wind energy to electrical energy, including all appurtenant structures and infrastructure, that has a nameplate capacity of at least one hundred (100) kilowatts.

Wind Turbine Height: The vertical distance between the ground and the highest point of the swept area.

SECTION 3. AMENDMENTS OF ARTICLE XII SOLAR FARM OVERLAY DISTRICT

§12.01(B) PERMITTED ACCESSORY USES IS HEREBY AMENDED TO ADD A NEW §12.01(B)(2), WHICH SHALL READ AS FOLLOWS:

2. Accessory uses or structures clearly incidental to the operation of an approved Utility-Scale Wind Energy Conversion Facility.

§12.01(C) USES PERMITTED BY SPECIAL USE PERMIT IS HEREBY AMENDED TO ADD A NEW §12.01(C)(2) [SIC], WHICH SHALL READ AS FOLLOWS:

2. Utility-Scale Wind Energy Conversion Facilities.

SECTION 4. AMENDMENT OF TABLE OF CONTENTS

THE TABLE OF CONTENTS IS HEREBY AMENDED FOR CONSISTENCY WITH THE ABOVE AMENDMENTS AND TO ACCOMMODATE REPAGINATION.

SECTION 5. SEVERABILITY AND VALIDITY.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

SECTION 6. REPEALER.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 7. EFFECTIVE DATE.

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).

MARION TOWNSHIP

ZONING ORDINANCE TEXT AMENDMENT

UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES

AN AMENDMENT TO THE MARION TOWNSHIP ZONING ORDINANCE TO ESTABLISH SPECIFIC STANDARDS FOR UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES; ADD DEFINITIONS RELATED TO UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES; AMEND ZONING DISTRICTS TO ALLOW FOR THE USE; AND AMEND THE TABLE OF CONTENTS ACCORDINGLY.

SECTION 1- AMENDMENT OF ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES

ARTICLE XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES IS AMENDED BY THE ADDITION OF NEW §17.38 UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES, WHICH SHALL READ AS FOLLOWS:

Section 17.37 Utility-Scale Batter Energy Storage Facilities

A. Intent and Purpose: The intent and purpose of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility-Scale Battery Energy Storage Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; ensure compatibility with land uses in the vicinity of the areas affected by such facilities; and comply with state law.

B. **Locational Requirements:** Utility-Scale Battery Storage Facilities are subject to the locational requirements below.

1. Zoning Districts: Utility-Scale Battery Energy Storage Facilities are permitted by special use permit in the SFO Solar Farm Overlay District.

2. Spacing: Utility-Scale Battery Energy Storage Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility-Scale Battery Energy Storage Facility.

C. Site Requirements: Utility-Scale Battery Energy Storage Facility sites shall meet the site standards below.

1. Site Composition: The site may consist of a single participating property or multiple adjoining participating properties. All participating properties must have signed agreements to participate in the Utility-Scale Battery Storage Facility.

2. Lot Area: The site shall have a total net lot area of at least twenty (20) acres and no more than one thousand (1,000) acres.

3. Access: Utility-Scale Battery Energy Storage Facilities shall meet the access standards below.

   a) Road or Easement: The site, all fenced compounds, and every battery storage component shall have direct access from a public road or an access easement with a

maximum length of one thousand two hundred fifty (1,250) feet and width of at least thirty-three (33) feet.

b) Access Drive Material: Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.

c) Access Drive Maintenance: Access drives must be maintained and kept accessible at all times. The applicant, owner, operator, and property owners shall be jointly and severally responsible for maintenance of the access roads.

d) Access Drive Design: Access drives shall be designed to reduce the impact on agricultural use of the land and the visual impact. Access drives shall not impede the natural flow of water.

e) Gates and Doors: All access gates and doors to Utility-Scale Battery Energy Storage Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.

f) Compound Surface Material: Utility-Scale Battery Storage Facility compound shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.

4. Setbacks: buildings containing batteries, fenced compounds, accessory structures, and electrical equipment shall meet the setback standards below.

a) Measurement: Setbacks from any battery buildings or accessory structures shall be measured horizontally from the edge of the building or component structure.

b) Fences and Improved Areas: All fences and improved areas shall comply with the applicable setback for the underlying zoning district in which it is located.

c) Fenced Compounds: All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.

d) Utility-Scale Battery Energy Storage systems: Utility-Scale Battery Energy Storage systems and related accessory structures shall meet the setbacks in the table below.

Setback from	Distance
Non-participating property lines	100 feet
Occupied buildings on non-participating properties	500 feet
Occupied buildings on participating properties	500 feet
Lakes, rivers, creeks, and similar bodies of water and Wellhead Protection Areas	100 feet
Road rights-of-way	100 feet

5. Battery Component Spacing: Battery component spacing shall comply with industry standards and be adequate to provide emergency access throughout the facility.

6. Height: Utility-Scale Battery Energy Storage components must not exceed a maximum height of twenty-five (25) feet above ground.

7. Lighting: Lighting shall be limited to inverter or substation locations only and shall comply with §14.04(E) Lighting.

8. Utility-Scale Battery Energy Storage Structures: Utility-Scale Battery Energy Storage structures within a Utility-Scale Battery Energy Storage Facility shall meet the design standards below.

   a) Consistent: All Utility-Scale Battery Energy Storage systems and related accessory structures within the facility shall be of the same appearance.

   b) Good Condition: All Utility-Scale Battery Energy Storage systems and related accessory structures shall be maintained in good condition at all times, consistent with or better than industry standards.

   c) Certification: Utility-Scale Battery Energy Storage systems and related accessory structures shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), International Electrotechnical Commission (IEC), or other similar certification organization.

9. Wiring: All power transmission, communication, or other lines, wires, or conduits within a Utility-Scale Battery Energy Storage shall meet the standards below.

   a) Stray Voltage: Stray Voltage: All wiring shall comply with all applicable safety and stray voltage standards. Stray voltage originating from a Utility-Scale Battery Energy Storage Facility shall not be detected on any participating or non-participating properties.

      1) Preconstruction Test: A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of all participating properties. The tests shall be performed by an investigator approved by the Township at the applicant's expense.

      2) Report: A report of the tests shall be provided to the owners of all property included in the study area.

      3) Permission: The applicant/landowner shall seek written permission from property owners prior to conducting testing. Testing shall not be required on non-participating properties where the owners have refused to grant permission to conduct the testing. The owner of any participating property included in the list of project parcels shall not refuse the stray voltage testing.

   b) Underground: Wiring shall be underground, except for power switchyards or the area within a fenced substation. When the Township finds underground wiring is not feasible due to soil or water conditions the above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

   c) Depth: Wiring shall be located at a depth to prevent any damage from freezing or frost, to prevent interference with drain tiles, and at a depth that complies with current National Electrical Code standards.

   d) Interference: Wiring shall be located and designed to not cause interference with wired or wireless communication systems.

e) Armoring: Concrete armoring techniques shall be used at every location where wiring crosses a county drain, river, water line, or sewer line.

f) Marking: Permanent, visible markers or tracing wires shall be installed to indicate the location of wiring.

g) Drain Tiles: Wiring shall be located to minimize conflict with drain tiles.

10. Drain Tiles Drain tiles within the Utility-Scale Battery Storage Facility shall be preserved and maintained throughout the construction, operation, and restoration periods, as described below.

a) Initial Inspection: Before the start of construction, all existing drain tiles within the facility and within any disturbed areas must be inspected by robotic camera with the imagery submitted to the Township for baseline documentation on tile conditions.

b) Continuing Inspection: Drain tiles must be reinspected by robotic camera every three (3) years while the facility is in operation or when conditions indicate there may be damage to drain tiles with the imagery submitted to the Township.

c) Repairs: Damage drain tiles shall be repaired within sixty (60) days of discovery. The Township shall be notified of any necessary repairs before the work commences and documentation of the repair work. Repairs necessary to address an emergency situation may be completed without prior notice to the Township.

d) Inspection: The Township reserves the right to have a Township official or other agent present at the time of repair.

11. Fire Suppression: : A fire suppression system shall be provided that is specifically designed to immediately suppress and extinguish fires in any part of the Utility-Scale Battery Storage Facility, including the solar arrays, electrical equipment, and transformers.

a) Documentation: Documentation shall be provided confirming the effectiveness of the fire suppression system and the results of a third-party independent inspection, as approved by the Township, of the fire suppression system.

b) Fire Authority: The fire suppression system shall be reviewed and approved by the Township's fire authority.

c) Annual Inspection: The fire suppression system shall be inspected and approved yearly by a third-party independent inspecting company that is approved by the Township.

12. Groundcover: Utility-Scale Battery Storage Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned where appropriate within the site.

a) PA 116 Lands: Land within the project area that are enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Renewable Energy Development on PA 116 Lands.

b) Non-PA 116 Lands: Land within the project that are not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual-use ground cover to promote ecological benefits:

1) Pollinators: Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites (www.pollinators.msu.edu);

2) Conservation Cover: Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;

3) Grazing: Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or

4) Crops: Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.

c) Alternative Ground Cover: The Township may approve or require alternative ground cover upon finding it is not feasible to provide groundcover as defined above.

d) Ground Cover Nature: All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover.

e) Invasives and Noxious: Invasive species and noxious weeds are not permitted and must be removed in a timely manner.

13. Fencing: Utility-Scale Battery Energy Storage Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and to screen the facility.

a) Height: The fence shall be at least seven (7) feet tall.

b) Fence Posts: Fence posts shall extend at least thirty-six (36) inches into the ground, and gate posts and corner posts shall have a concrete foundation.

c) Fence Type: The fence shall be a woven agricultural-style fence. The Township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.

d) Gate Access: Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.

e) Gate Type: Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.

f) Wildlife Considerations: The Township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.

g) Alternative Fencing: Alternate fencing may be approved by the Township upon a finding that the alternative provides adequate access control and visual screening.

14. Signage: Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this Ordinance.

D. Buffering Requirements: Utility-Scale Battery Energy Storage Facilities shall provide buffering described below.

1. Vegetative Buffer: There shall be a landscape buffer at least twenty (20) feet wide along the exterior of any fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the fenced compound.

   a) Design: The buffer shall have two (2) rows of staggered evergreen trees planted twelve (12) feet apart or less trunk-to-trunk. The two (2) rows shall be ten (10) feet apart. The Township may consider an alternative landscape buffer as a part of special use permit approval, provided the alternative buffer provides adequate screening.

   b) Vegetation Size: Plantings shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader, not including the height of the leader, and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.

   c) Maintenance: The trees may be trimmed but must maintain a height of at least eighteen (18) feet. Damaged or diseased trees shall be shall be replaced at the next appropriate planting season.

   d) Evergreen Species: Evergreen trees shall be Norway Spruce in the row closest to fence and Thuja Green Giant Arborvitae in the row away from the fence. The Township may require or consider alternative evergreen species as part of special use permit approval, provided the alternative species are more appropriate for the local conditions or are desirable due to disease or pest.

2. Buffer Maintenance: Good arboricultural techniques shall be followed with respect to vegetation, including, but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted in a manner consistent with these standards at the next appropriate planting season.

E. **Performance Standards:** Utility-Scale Battery Storage Facilities shall meet the performance standards below.

1. Compliance: Utility-Scale Battery Storage Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations and industry standards.

2. Sound: The sound generated by a Utility-Scale Battery Storage Facilities must meet the sound standards of this Ordinance and the additional standards below.

   a) Day Sound Level: The maximum sound level shall be forty (40) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 7:00 am and 9:00 pm.

b) Night Sound Level: The maximum sound level shall be thirty-five (35) Dba Lmax, as measured at the project boundary and road rights-of-way between the hours of 9:00 pm and 7:00 am.

c) Pure Tone: If pure tones are produced, the maximum sound level shall be reduced by five (5) Dba.

d) Ambient Sound: If the ambient sound levels exceed these standards, the maximum sound level shall be the ambient sound level plus five (5) Dba.

e) Inverter Sound Screening: A sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than ten (10) feet apart, must be constructed to reduce noise levels surrounding all inverters. Berms must be within ten (10) feet of all inverters and must be at least as tall as all inverters but cannot be more than three (3) feet taller than the height of the adjacent inverters.

f) Continued Compliance: The sound level generated by a Utility-Scale Battery Storage Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with applicable sound standards.

3. Reports: In addition to other reports identified in this Ordinance, the owner or operation shall submit the following reports during the operation of Utility-Scale Battery Storage Facilities.

a) Annual Report: An annual report shall be provided to the zoning administrator showing continuity of operation.

b) Operation. A report shall be provided to the zoning administrator if the Utility-Scale Battery Storage Facility or any of its components are no longer being used.

c) Incident Report: Reports shall be submitted if there is a major incident at the Utility-Scale Battery Storage Facility that did or could have caused harm to life or property, including calls for service from emergency responders. The report shall identify the cause of the incident and corrective action to prevent future incidents of that nature.

4. Safety: Utility Solar Energy Facilities shall be subject to the safety standards below.

a) Warning Signs: The manufacturer's or installer's identification and appropriate warning signs shall be posted on or near each solar array and electrical equipment in a clearly visible manner.

b) Fire Suppression and Data Sheets: Fire suppression plans and Safety Data Sheets shall be kept onsite and be accessible for emergency responders.

c) Safety Manual: An unredacted copy of the manufacturer's safety manual for each component of the Utility-Scale Battery Storage Facility, without distribution restraints, will be provided before construction commences. These will be kept at the Township Hall and other locations deemed necessary by the Township or local first responders. The manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during a Utility-Scale Battery Storage Facility failure, processes in emergencies, etc.

5. Interference: Utility-Scale Battery Storage Facilities must not interfere with any radio, television, or other communication systems. The applicant or operator must resolve any

known interference immediately and provide proof that the interference has been resolved within ninety (90) days.

6. Complaint Resolution: Utility-Scale Battery Storage Facilities shall provide a complaint resolution process, as described below.

   a) Signs: Signs with contact information to report complaints related to the Utility-Scale Battery Storage Facility shall be posted throughout the project area. Signs shall be posted before construction begins and maintained until decommissioning is complete.

   b) Resolution Options: Any resolution shall include lawful and reasonable solutions consistent with this Ordinance.

   c) Contact: A twenty-four (24) hour, toll-free number shall be established the owner or operator to receive complaints. Additional reporting methods, such as postal mail or electronic mail, may also be used.

   d) Log: A log shall be kept by the owner or operator of all complaints received and documentation of the resolution. The log shall be available for review by Township Officials.

   e) Notification: The zoning administrator shall receive notification of all complaints received. An annual report shall be submitted to the Township that details all complaints received, the status of complaint resolution, and actions taken to resolve complaints.

   f) Resolution Period: Complaints for hazardous conditions shall be resolved within twelve (12) hours or as soon as reasonably possible. Other complaints shall be resolved within ten (10) business days . The zoning administrator shall receive notification of all complaints received.

   g) Adjudication: The operator or its assigns reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction.

7. Insurance and Performance Guarantees: Utility-Scale Battery Storage Facilities shall provide insurance and performance guarantees. These are in addition to other insurance or performance guarantees required by this Ordinance or other entities.

   a) General Liability Insurance: Utility-Scale Battery Storage Facilities shall have and maintain general liability insurance of at least ten million ($10,000,000) dollars. The Township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.

   b) General Maintenance Performance Guarantee: A General Maintenance Performance Guarantee shall be provided before construction commences to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the Utility-Scale Battery Storage Facility. At the time of the application, the applicant shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility-Scale Battery Storage Facility, and the performance guarantee shall be the higher of the two (2) bids. The Township may use the performance guarantee to repair any landscaping, fencing, drainage infrastructure (including drainage tiles),

and/or to correct any ongoing violation of this Ordinance in the event that the site improvements for the Utility-Scale Battery Storage Facility is not maintained or the Utility-Scale Battery Storage Facility fails to make operational changes to correct an operational violation.

c) Road Performance Guarantee: A road performance guarantee shall be provided before construction comments in a form acceptable to the Township, such as: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable irrevocable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. A construction surety bond shall not be accepted. The amount of the performance guarantee shall be at least one million two hundred fifty thousand dollars ($1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The performance guarantee shall only be released, in whole or part, when the Township Board, in consultation with the Livingston County Road Commission and Michigan Department of Transportation, as applicable, and the third-party inspector, determines that all required road work has been completed and approved by the affected road agencies. The Township may waive or reduce the requirement for this performance guarantee if the road agencies collect a performance guarantee.

d) Complaint Inspection Escrow: An escrow account, funded by the applicant, owner, or operator, to be used for investigation of complaints shall be established before construction commences. The escrow account shall be used by the Township for investigation of complaints, including reasonable reimbursement of qualified third-party agents, for, but not limited to, glare, stray voltage, sound, and signal interference. The escrow account shall be kept with the Township Treasurer. The initial escrow account shall be in the amount of fifteen thousand dollars ($15,000). When the escrow account balance is below five thousand dollars ($5,000), the Township shall notify the responsible part, who must replenish the escrow account to the amount of fifteen thousand dollars ($15,000) within a period of forty-five (45) calendar days.

8. Dust Control: Reasonable dust control measures shall be taken during construction and operation.

9. Plants and Grasses: Plants or grasses not part of the buffer area shall be maintained at a height of twelve (12) inches or less. The Township may approve a taller height upon a finding that it will not result in a nuisance.

10. Wildlife: Utility-Scale Battery Storage Facilities shall be designed, sited, and operated in a manner to minimize impact on wildlife.

a) Wildlife Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Special Scrutiny: Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally- or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

d) US Fish and Wildlife Service. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.

e) Post-Construction Mortality Study: A post-construction wildlife mortality study may be required. The analysis should indicate if such a study is determined unnecessary and the reasons why such a study does not need to be conducted. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) guidelines to prevent avian mortality.

11. Environment: Utility-Scale Battery Storage Facilities shall be designed, sited, and operated to minimize impact on the environment.

a) Environmental Impact Analysis: The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities.

b) Adverse Impacts: Appropriate measures shall be taken to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

c) Environmental Laws: Utility-Scale Battery Storage Facilities shall comply with applicable parts of the Michigan Natural Resources and Environmental protection Act (Act 451 of 1994, MCL 324.101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324030301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).

d) Containment System: A containment system shall surround any transformers in case of hazardous waste or oil spills.

e) Removal: All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

f) Responsibility: The Utility-Scale Battery Storage Facility owner, operator, and property owner shall be responsible, jointly and severally, for mitigating erosion, flooding, and all other environmental impacts resulting from the Facility.

12. Emergency Action Plan: Utility-Scale Battery Storage Facilities shall have an Emergency Action Plan to identify actions to be taken in event of an emergency.

a) Fire Suppression: The Emergency Action Plan must include a fire suppression plan, including the technology to be used and the training and equipment to be provided to Township or other firefighters before the facility becomes operational.

b) Special Equipment and Training: The Emergency Action Plan shall identify special equipment and training that is required for emergency response to the Utility Solar Energy Facility.

c) Clean-up: The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.

d) Emergency Training: Before the Utility-Scale Battery Storage Facility is operational, it must provide the necessary training, equipment, or agreements specified in the Emergency Action Plan to the Township or other emergency personnel. All training must be consistent with current industry standards.

e) Public Record: The Emergency Action Plan will be a public record.

F. General Provisions: Utility-Scale Battery Storage Facilities shall be subject to the general provisions below.

1. Damage Repair: The owner, operator, and property owner shall be responsible, jointly and severally, for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, maintenance of, or damage to, the Utility-Scale Battery Storage Facility.

2. Mixed Facilities: Utility-Scale Battery Storage Facilities may be co-located with other renewable energy facilities, such and Utility Battery Energy Storage Facilities or Utility Wind Energy Conversion Facilities. Review and approval are required for each use.

3. As-Builts: The applicant shall submit an as-built drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The as-built drawing shall be a scale of 1" = 200 feet.

4. Repowering or Modifications: Any modifications of an approved site plan or special use permit that are made after the initial date of approval, including, but not limited to, an expansion of project, repowering, reconfiguration, technological updates, shall require new site plan and special use permit applications. Any changes of the approved site plan or special use permit will be subject to this Ordinance as it exists at time of this new application.

5. Transfer or Sale: : In the event of a transfer or sale of a Utility-Scale Battery Storage Facility, the new owner or operator must notify the Township within thirty (30) days, and the zoning administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

G. **Decommissioning, Abandonment, and Restoration:** Following the operational life or abandonment of a Utility-Scale Battery Storage Facility, the site shall be decommissioned and restored as outlined below.

1. Decommissioning Plan: Decommissioning Plan: The applicant shall have a third-party qualified professional, acceptable to the Township, prepare a decommissioning plan. The decommissioning plan shall be written to provide security to the township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The decommissioning security shall be paid in cash to the Township.

    a) Anticipated Life: The decommissioning plan shall describe the anticipated life span of the Utility-Scale Battery Storage Facility and its components.

    b) Decommissioning Costs: The decommissioning plan shall provide a probable cost estimate for decommissioning, including current cost and cost at the time of decommissioning.

    c) How Paid: The decommissioning plan shall provide a description of how decommissioning costs will be paid. Additional security may be required to account for increased anticipated decommissioning costs during the preceding three (3) years.

    d) Regular Updating: The decommissioning plan shall be updated on a regular, period basis at of at least once every three (3) years.

2. Abandonment: Utility-Scale Battery Storage Facilities or any components that are not operated for a continuous period of six (6) months shall be considered abandoned, whether or not there is an intent to continue the use, and shall be removed or restored to operation. An extension may be granted by the Township upon finding that the delay does not create a hazardous condition and the application has demonstrated a good faith effort to continue operation.

3. Damage: Any Utility-Scale Battery Storage Facility components that are damaged shall be replaced or removed within seven (7) days. An extension may be granted by the Township upon finding that it is not feasible to replace or remove the component in that period and that the delay does not create a hazardous condition.

4. Unsafe: Any unsafe components shall be removed or made safe within a reasonable period as determined by the Township.

5. Compaction Prevention: All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.

6. Chemical Analysis and Boring: : A chemical analysis and boring of the soil, as recommended by the Township engineer shall be performed before any decommissioning work begins with the results compared to the baseline soil chemical analysis baseline test results obtained before construction of the Utility-Scale Battery Storage Facility.

    a) Chemical Levels: All levels of any chemical entity found in the soil chemical analysis must be equal to or are lower than the levels of all chemical entities determined in the baseline testing performed prior to construction. If a new chemical entity, either organic or inorganic compounds, are identified in the soil chemical analysis, its level must be below established federal and state government levels for hazardous materials in soils for that chemical entity.

b) Report: A report of the soil chemical analysis must be provided to the Township within seven (7) days. If any chemical entity, organic or inorganic compounds, are above established federal and state government levels for hazardous materials in soils, the report must be submitted to the appropriate Federal and State regulatory agencies within seven (7) days of receiving the testing report showing a violation.

c) Violation Mitigation: Once a violation has been determined and finalized, a reclamation plan for the contaminated soil must be developed and implemented to remove the contaminated soil from the Utility-Scale Battery Storage Facility site. The reclamation plan must meet all Federal and State regulations for the reclamation of a contaminated site. The plan must be approved by the Township Board and the Township engineer. Once the contaminated soil has been removed and replaced with uncontaminated soil, a final soil chemical analysis shall be performed to confirm the Utility-Scale Battery Storage Facility site soils have been returned to its original state for levels of organic and inorganic compounds that existed before construction.

d) Cation Exchange Capacity: A Cation Exchange Capacity soil test shall also be required at the completion of the decommission process.

e) Violation Remediation: Any negative variations from the preconstruction soil testing must be remedied and the final results of the testing approved by the Township engineer and the Township Board.

7. Ground Restoration: The ground must be restored to its original topography and land must be restored to a depth of three (3) feet below grade within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted by the Township if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.

8. Land Balancing: If land balancing is required, all top soil will be saved and spread evenly over balanced area.

9. Township Action: The Township may remove any abandoned or unsafe Utility-Scale Battery Storage Facility components that are not removed or restored within the allowed time. The owner, operator, and property owner shall be jointly and severally responsible for any costs.

10. Attorney Costs: The owner, operator, and property owner shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the Township has to enforce removal.

11. Vegetation: Disturbed land shall be revegetated at the next appropriate planting season.

12. Disposal: All structures, equipment, and waste shall be removed from the site and disposed of properly.

H. **Application Materials:** Applications for Utility-Scale Battery Storage Facilities must submit the following additional materials with the Special Land Use Application. These are in addition to information required for site plan and special use permit applications.

1. Identification: The name and address in full of the applicant, developer, owner, operator and property owners, a statement that the applicant is the owner involved in the application, and any additional contact information shall be submitted.

2. Application Dating: Each application for a Utility-Scale Battery Storage Facility shall indicate the date the application is received by the Township

3. Purchase Agreements or Leases: Copies of all purchase agreements or leases for all participating properties that confirm the applicant has the permission of the participating property owners to apply for the necessary approvals and permits for construction and operation of a Utility-Scale Battery Storage Facility.

4. Project Description: A general description of the proposed project, including name-plate generating capacity and an anticipated construction schedule shall be submitted.

5. Battery Components: A complete description of the proposed technology to include type of battery components, dimensions, anticipated life, and any hazardous materials contained in the battery components.

6. Conceptual Plan: A graphical computer-generated depiction of how the Utility-Scale Battery Storage Facility will appear from all directions shall be submitted.

7. Documentation: A complete set of photos and video of the entire development area, including construction access roads, as it exists before the application date shall be submitted.

8. Operation: A description of operations, including anticipated regular and unscheduled maintenance and the hours of the day maintenance will take place shall be submitted.

9. Power Purchase Agreement: : A copy of the power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Storage Facility shall be submitted.

10. Insurance: Proof of the general liability insurance to cover the Utility-Scale Battery Storage Facility, the Township, and the participating property owners shall be submitted.

11. Certifications: Certification shall be submitted that the Utility-Scale Battery Storage Facility will comply with all applicable state and federal laws and regulations in effect at the time the application is submitted, including, but not limited to: Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); and Part 365, Endangered Species Protection (MCL324.36501 et. seq.).

12. Farmland Preservation Approval: Utility-Scale Battery Storage Facilities with any participating properties that are enrolled in the Michigan Farmland Preservation program must provide confirmation of approval from the Michigan Department of Agriculture to locate the facility on the property.

13. Road Agencies: Proof of approval or conditional approval by any road agency from which the Utility-Scale Battery Storage Facility will have access or whose roads will be used as a construction or maintenance route shall be submitted.

14. Drain Commission: Proof of approval or conditional approval by and the Livingston County Drain Commission for any Utility-Scale Battery Storage Facility that has participating properties with a county drain or propose improvements within a county drain easement.

15. Manufacturers' Safety Data Sheet(s): Documentation include the type and quantity of all materials used in the operation of all equipment shall be submitted.

16. Wildlife Impact: Copy of the Wildlife Impact Analysis shall be submitted.

17. Environmental Impact: Copy of the Environmental Impact Analysis shall be submitted.

18. Soil Chemical Analysis: A chemical analysis and borings including a Cation Exchange Capacity (CEC) of the soil involved in the project must be completed as recommended by the Township engineer.

19. Complaint Resolution Protocol: Copy of Complaint Resolution Protocol shall be submitted.

20. Decommissioning Plan: Copy of the decommissioning plan shall be submitted.

21. Emergency Action Plan: Copy of the Emergency Action plan shall be submitted.

22. Indemnification: An attestation that the applicant, owner, operator, and property owners will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Storage Facility, which is subject to the Township's review and approval, shall be submitted.

23. Right-to-Enter: Submission of an application for a Utility-Scale Battery Storage Facility grants the Township and its agents the right to enter the facility and any participating property for inspection of the Utility-Scale Battery Storage Facility at any at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the applicant, owner, or operator.

24. Additional Information: Any additional information, studies, or documentation requested by the Township or its agents that are deemed necessary to determine compliance with this Ordinance and other applicable laws and regulations.

I. **Utility Solar Energy Facilities under PA 233:** On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Battery Energy Storage Facilities with a nameplate capacity of one hundred (100) megawatts or. These provisions below shall control to the extent that they conflict with the other provisions in §17.38 Utility-Scale Battery Energy Storage Facilities. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect. All provisions in §17.38 Utility-Scale Battery Energy Facilities that do not conflict with this subsection remain in full force and effect.

1. Setbacks: Utility-Scale Battery Storage must comply with the minimum setback requirements in the table below, with setback distances measured from the nearest edge of the perimeter fencing of the facility.

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way

Nonparticipating parties	50 feet measured from the nearest shared property line

2. Fencing: : Fencing for the Utility-Scale Battery Storage Facilities must comply with the latest version of the National Electric Code as of November 29, 2024, or as subsequently amended.

3. Sound: The Utility-Scale Battery Storage Facility must not generate a maximum sound in excess of fifty-five (55) average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

4. Lighting: The Utility-Scale Battery Storage Facility must implement dark sky-friendly lighting solutionEnvironmental Regulations: Utility-Scale Battery Storage Facilities must comply with applicable state or federal environmental regulations

5. Host Community Agreement: The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Storage Facility owner must pay the Township two thousand dollars ($2,000.00) per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or other projects as agreed to by the Township and the applicant.

6. PA 233 Requirements: The Utility-Scale Battery Storage Facility shall be subject to the other applicable rules and regulations outlined in PA 233 of 2023 and by the Michigan Public Service Commission.

7. Applicant's Option: An applicant can elect at the time of application to have their application for a Utility-Scale Battery Storage Facility processed using the other provisions of §17.37 Utility-Scale Battery Storage Facilities, even if PA 233 of 2023 is in full effect.

SECTION 2- AMENDMENT OF ARTICLE III DEFINITIONS

ARTICLE III DEFINITIONS IS HEREBY AMENDED TO ADD THE FOLLOWING UTILITY-SCALE BATTERY ENERGY STORAGE FACILITY DEFINTIIONS, WHICH SHALL BE PLACED IN ALPHABETICAL ORDER WITH EXISTING DEFINITIONS, , WHICH SHALL READ AS FOLLOWS:

Utility-Scale Battery Energy Storage Facility: A facility with energy storage systems that absorb, store, and discharge electricity with a name-plate capacity of at least fifty (50) megawatts and an energy discharge capacity of at least two hundred (200) megawatt hours. This does not include fossil fuel storage or power-to-gas storage that directly uses fossil fuel input.

SECTION 3- AMENDMENT OF ARTICLE XII SOLAR FARM OVERLAY DISTRICT

§12.01(B) PERMITTED ACCESSORY USES IS HEREBY AMENDED TO ADD THE FOLLOWING ACCESSORY USE, WHICH SHALL READ AS FOLLOWS:

2. Accessory uses or structures clearly incidental to the operation of an approved Utility-Scale Battery Energy Storage Facility.

§12.01(C) USES PERMITTED BY SPECIAL USE PERMIT IS HEREBY AMENDED TO ADD THE FOLLOWING USE PERMITTED BY SPECIAL USE PERMIT, WHICH SHALL READ AS FOLLOWS:

2. Utility-Scale Battery Energy Storage Facilities.

SECTION 4- AMENDMENT OF TABLE OF CONTENTS

THE TABLE OF CONTENTS IS HEREBY AMENDED FOR CONSISTENCY WITH THE ABOVE AMENDMENTS AND TO ACCOMMODATE REPAGINATION.

SECTION 5. SEVERABILITY AND VALIDITY

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

SECTION 6. REPEALER

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 7. EFFECTIVE DATE

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).