COHOCTAH PLANNING COMMISSION
SPECIAL MEETING
June 27, 2024 at 7:00 PM
Township Hall | Fowlerville, Michigan

The Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting upon 72 hour advance notice by contacting Barb Fear, Township Clerk, by email: bfearclerk@gmail.com, phone: (517) 546-0655, or mail: 10518 N Antcliff Rd Fowlerville MI 48836.

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE – *Moment of Silence*

ROLL CALL

APPROVAL OF AGENDA

CALL TO THE PUBLIC

MATTERS PERTAINING TO THE GENERAL PUBLIC

1. Public Hearing- Zoning Ordinance Amendments for Wind Energy Projects, Solar Energy Projects, Battery Energy Storage Projects.

UNFINISHED BUSINESS

NEW BUSINESS

CALL TO THE PUBLIC

ADJOURNMENT

COHOCTAH TOWNSHIP

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE WIND ENERGY SYSTEMS

The Township of Cohoctah ordains:

Section 1. Adoption of New Section XXXIII, Wind Energy System Overlay District

New Article XXXIII, entitled "Wind Energy System Overlay District," is added to the Zoning Ordinance and reads as follows:

Article XXXIII, Wind Energy System Overlay District

Section 33.01. Purpose and Findings

A. Purpose. The Wind Energy System Overlay District (the "District") is intended to provide suitable locations for utility-scale wind energy systems that are otherwise authorized under state law and the Township's Code of Ordinances and Zoning Ordinance to meet a reasonable demonstrated need for this land use in the Township. It is the intent of the Township to permit these systems to the extent a demonstrated need exists for the land use by regulating the siting, design, construction, operation, monitoring, modification, and removal of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of wind energy systems. The Township seeks to preserve its rural character and agricultural heritage. To these ends, the lands included in this District are within reasonable proximity to existing electric power transmission infrastructure.

B. Findings. In establishing this overlay district, the Township of Cohoctah finds as follows:

1. It is necessary and reasonable to permit utility-scale wind energy systems in the Township to the extent that there is a demonstrated need for that land use.

2. Land use for utility-scale wind energy systems beyond a reasonable and legitimate demonstrated need to provide for the Township's energy needs would have needless adverse effects on surrounding businesses and residences, and be detrimental to the health, safety, welfare, and prosperity of the Township and its residents.

3. The Township wishes to preserve its existing topography and rural character, maintain property values, and protect and preserve the quality and pace of rural life of its residents while preserving the environment and protecting wildlife.

4. Wind Energy Systems can adversely impact the health, safety, welfare, and prosperity of that community, including existing property values, especially when in proximity to farms, forests, and residential properties.

5. Wind Energy Systems shall be carefully managed to reduce the adverse long-term effects such land use can have on the productivity of farmland. *See* University of

Michigan Graham Sustainability Institute & Michigan State University Extension, "Planning & Zoning for Wind Energy Systems."

6. Several Michigan communities have suffered, or are suffering, from fiscal uncertainty due to litigation and rule changes concerning taxation arising from rural renewable energy production.

7. The Township contributes significant storm water runoff into adjacent municipalities because of relative elevations, and therefore the Township values low-impact development to better manage its stormwater runoff.

8. Impervious surfaces such as wind turbines channel stormwater runoff, and support posts and trenching are likely to damage drain tiles. Thus, Utility Scale Wind Energy Systems must be carefully sited, designed, and limited in scope.

9. The Township adopts these land use regulations to balance any demonstrated need for utility-scale wind energy systems in the Township with the public, health, and safety impacts identified above.

Section 33.02. Delineation of the Wind Energy System Overlay District

A. The Wind Energy System Overlay District overlays existing zoning districts delineated on the official Township Zoning Map. The boundaries of the Wind Energy System Overlay District are depicted on Map A, incorporated herein by reference.

Section 33.03. Permitted Uses.

There are no uses permitted by right in the Wind Energy System Overlay District, other than uses permitted by right in the underlying zoning districts.

Section 33.04. Special Land Uses.

The following uses are permitted following approval by the Planning Commission as a Special Land Use in the Wind Energy System Overlay District as regulated by Article XIII (special uses) and Article XX (site plan review).

Utility-Scale Wind Energy Systems

Section 2. Amendment of Section 3.01 of the Zoning Ordinance Section

Section 3.01 of the Zoning Ordinance, entitled "Establishment of Districts," is amended to add the following:

Article XXXIII WES Wind Energy System

Section 3. Addition of Definitions to Section 2.02 of the Township Zoning Ordinance

The following definitions are added to Section 2.02 of the Township Zoning Ordinance, consistent with the existing ordering of definitions in that section:

A. Private Wind Energy System: A Wind Energy System used exclusively for private purposes and not used for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

B. Wind Energy System (WECS): Any part of a system that collects or stores wind radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by wind energy to any other medium by any means.

C. Utility-Scale Wind Energy System: A Wind Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

D. Non-Participating Property: A property that is not subject to a Utility Scale Wind Energy System lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Scale Wind Energy System.

E. 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 Land Use Permit application for the purpose of developing a Utility Scale Wind Energy System.

F. Owner/Operator: A person or entity that owns or operates a Utility Scale Wind Energy System. "Owner/operator," even when used in the singular, may refer to more than one person or entity if there are multiple owners or operators, or the Utility Scale Wind Energy System is owned and operated by different entities. "Owner/operator" includes any successor to the original owner/operator. "Owner/operator" may or may not be the same as the applicant.

Section 4. Repeal of Existing Section 16.57 and Ordinance No. 67 of 2011; Addition of New Section 16.57 entitled "Wind Energy Systems"

The current Section 16.57, entitled "Wind Energy System," as well as all regulations in Ordinance No. 67 of 2011, are repealed in their entirety. New Section 16.57 entitled "Wind Energy Systems," is added to the Township's Zoning Ordinance and reads as follows:

Section 16.57 Wind Energy Systems.

A. General Provisions. All Wind Energy Systems are subject to the following requirements:

1. All Wind Energy Systems shall conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriter Laboratory (UL), National Electrical Code (NEC), National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies.

2. If an applicant, operator, or landowner of a Wind Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or

equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

B. **Private Wind Energy Systems.**

1. Administrative Review. Except as provided in subsection (d) below, all Private Wind Energy Systems require administrative approval as follows:

a. Application to Zoning Administrator. An applicant who seeks to install a Private Wind Energy System shall submit an application to the Zoning Administrator on a form approved by the Township Board.

b. Application Requirements. The application shall include:

1. A site plan depicting setbacks, turbine size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan shall be drawn to scale.

2. Photographs of the property's existing condition.

3. Renderings or catalogue cuts of the proposed wind energy equipment.

4. A certificate of compliance demonstrating that the system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency acceptable to Township.

5. A copy of the manufacturer's installation directions.

c. Zoning Administrator Authority. The Zoning Administrator is authorized to approve, approve with conditions, or deny applications for Private Wind Energy Systems. An aggrieved party may appeal the Zoning Administrator's decision to the Zoning Board of Appeals pursuant to Article 6 of the Zoning Ordinance.

d. Exclusions from Administrative Review. Administrative review is not required for repair and replacement of existing wind energy equipment if there is no expansion of the size or area of the wind energy equipment.

2. Private Wind Energy System. Private Wind Energy Systems are permitted in all zoning districts as an accessory use, subject to administrative approval as set forth in this section and subject to the following requirements:

a. Safety. A Private Wind Energy System shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with all applicable construction code and electric code including the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies.

b. Building Permit. A building permit is required.

c. Maximum Height. The total height of a Private WECS with the blade fully extended must not exceed 90 feet. The minimum clearance from ground level to the blade at its lowest point must be 30 feet.

d. Location. The minimum setback of a Private WECS from any property line or road right-of-way must equal three times the total height of the unit (with the WECS blade at its highest point).

e. Private WECS must comply with the noise limits set forth in this Ordinance.

f. Underground Transmission. All power transmission or other lines, wires, or conduits from a Private Wind Energy System to any building or other structure shall be located underground. If batteries are used as part of the Private Wind Energy System, they shall be placed in a secured container or enclosure.

C. Utility-Scale Wind Energy Systems. Utility-Scale Wind Energy Systems are permitted by Special Land Use approval in the Wind Energy System Overlay District and require a special land use permit under Article 5 and site plan approval under Article 4. Utility-Scale Wind Energy Systems are also subject to the following requirements:

1. Special Land Use Permit Application Requirements. In addition to the requirements of Article 5, the applicant for a Utility-Scale Wind Energy System shall provide the Township with all of the following:

a. Application fee in an amount set by resolution or fee schedule approved by the Township Board.

b. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

c. A list of all parcel numbers that will be used by the Utility-Scale Wind Energy System; documentation establishing ownership of each parcel; and any and all lease or option agreements, easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.

d. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.

e. Federal Employer Identification Number for current owner/operator is required at the time of application.

f. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources exist to respond to fires and other emergencies. If adequate resources do not exist, the applicant shall identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.

g. A written description of the fire suppression system that will be installed, which shall identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.

h. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility Scale Wind Energy System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Utility-Scale Wind Energy System.

i. A complete set of photographs, video, and topography map at two-foot intervals of the entire Participating Property prior to construction.

j. A copy of any power purchase agreement or other written agreement that the applicant has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale Wind Energy System and an electric utility or transmission company.

k. A written plan conforming to the requirements of this ordinance for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.

l. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Wind Energy System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Wind Energy System and restore the subject parcels to as near as possible to the condition the subject parcels were in prior to being used as a Utility-Scale Wind Energy System.

m. Financial security that meets the requirements of this ordinance.

n. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale Wind Energy System.

o. Identification of and a plan for managing any hazardous waste.

p. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation.

q. An attestation that the applicant and owner of the subject property will indemnify and hold the Township and its officials, elected or appointed, harmless from any costs or

liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Wind Energy System.

r. A copy of the manufacturer's directions, instruction manual, and specification sheets including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale Wind Energy System.

s. A ground cover vegetation establishment and management plan that complies with this ordinance.

t. Proof of environmental compliance, including compliance with:

i. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.);

ii. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances;

iii. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.);

iv. Part 303, Wetlands (MCL 324.30301 et. seq.);

v. Part 365, Endangered Species Protection (MCL324.36501 et. seq.);

and any other applicable laws and rules in force at the time the application is considered by the Township.

u. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

v. Insurance. Proof of the owner/operator's public liability insurance shall be provided at the time of application. If the applicant is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury and property damage and shall name Cohoctah Township and each Participating Property owner as an additional insured. The owner/operator shall insure for liability for the utility scale wind system until removed for at least $25,000,000 per occurrence to protect the owner/operator, Township, and Participating Property owner. Proof of a current policy is required annually and shall be provided each year to the Township prior to the anniversary date of the Special Land Use Permit.

w. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility Wind Energy Facility shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any Special Land Use Permit under this section.

x. Conceptual plan. A graphical computer generated depiction of how the Utility-Scale Wind Energy System will appear from all directions.

2. Site Plan Application Requirements.

a. Contents of Site Plan. In addition to the requirements in Article 4, the applicant shall, at its expense, provide a detailed application and site plan drafted to a scale of 1" = 200 feet with the following:

1. Location of all proposed structures, turbines, equipment, transformers, and substations.

2. Location of all existing structures or dwellings on the parcel and location of all existing structures or dwelling on adjacent Non-Participating Property within 1000 feet of the property lines of any Participating Properties.

3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.

4. Indication of how and where the system will be connected to the power grid.

5. Plan for any land clearing and grading required for the installation and operation of the system.

6. Plan for ground cover establishment and management.

7. Anticipated construction schedule and completion date. As a condition of any special land use or site plan approval, hours of construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. with no construction on Saturday, Sunday, or any federally recognized holiday.

8. Sound modeling study including sound isolines extending from the sound sources to the property lines.

9. Any additional studies requested by the Planning Commission, including but not limited to the following:

a. Visual Impact Assessment: A technical analysis by a third party qualified professional approved by the Township at applicant/owner's expense of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.

b. Environmental Analysis: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.

c. Stormwater Study: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense studying the proposed layout of the Utility-Scale Wind Energy System and how the spacing, row separation, and slope affects stormwater infiltration, including

calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.

d. Glare Study: An analysis by a third-party qualified professional approved by the Township at applicant/owner's expense to determine if glare from the Utility-Scale Wind Energy System will be visible from nearby airports, air strips, residences, and roadways. The analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale wind energy system.

e. Optional Conceptual Layout Plan. Applicants shall submit an optional conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan shall be reviewed by the Planning Commission to allow for discussion and feedback.

10. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the Township.

11. The site plan must show the existing topographical grades in two-foot intervals and conditions of all Participating Property at the time of application.

12. A baseline soil test including Cation Exchange Capacity (CEC) shall be provided to the township prior to any construction.

13. A written description of how the applicant will address dust control during construction. Such plan shall, at a minimum, consist of water applications at least three times per day unless it has rained in the preceding three hours of the planned application.

14. Water Usage and Cleaning. The applicant shall detail the methodology planned for cleaning the wind turbines, frequency, and listing of any and all detergents, surfactants, chemical solutions used for each cleaning, and sources of water used to facilitate turbine restoration and maintenance.

3. Application Items as Substantive Requirements. The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for a Utility-Scale Wind Energy System. The Planning Commission is to review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission shall deny approval on that basis.

4. System and Location Requirements.

a. Utility-Scale Wind Energy Systems are to be located only in the Wind Energy System Overlay District.

b. The minimum setback from any property line of a Non-Participating Landowner or any road right-of-way is 3,000 feet or five times the Tip Height of each turbine in the Utility-Scale WECS, whichever is larger. Additionally, each turbine must be located at least 0.5 miles from the nearest lake or body of water. If a single Utility-Scale Wind Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the Utility-Scale Wind Energy System is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those lots.

c. The maximum height of a Utility-Scale WECS with the blade fully extended must not exceed 300 feet.

d. The minimum clearance from ground level to the blade at its lowest point must be at least 100 feet.

e. Blade arcs created by a Utility-Scale WECS must have a minimum of 100 feet of clearance over and away from any structure.

f. Each Utility-Scale WECS must be equipped with a braking or equivalent device, capable of stopping the Utility-Scale WECS operation in high winds with or without SCADA control. The braking system must be effective during complete grid power failure when Utility-Scale WECS are unable to communicate with SCADA control or receive power.

g. All turbines must be equipped with technology that automatically de-ices 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.

5. Permits. All required county, state, and federal permits shall be obtained before the Utility-Scale Wind Energy System begins operating.

6. Appearance. All turbines and towers must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All turbines bases and blades must be the same color and must be consistent with the color of other Utility-Scale WECS in the Township. No advertisements, graphics, or striping are permitted on the blades or towers. The applicant is encouraged to select anti-icing paint that prevents the formation of ice on the surface of the turbine's blades.

7. Lighting. Lighting of the Utility-Scale Wind Energy System is limited to the minimum light necessary for safe operation. Towers may be lit only to the minimum extent required by the FAA.

8. Security Fencing.

a. Security fencing may be required by the Planning Commission to be installed around all electrical equipment related to the Utility-Scale Wind Energy System, including any transformers. Fencing shall be at least seven feet tall and be composed of woven agricultural wire. Barbed and razor wire is prohibited.

b. A containment system shall surround any transformers in case of hazardous waste or oil spills.

c. Appropriate warning signs shall be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Wind Energy System.

d. Gate posts and corner posts shall have a concrete foundation.

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

g. Security fencing is subject to setback requirements. The security fence shall be locked, and a self-locking device shall be used. Lock boxes and keys (may be electronic such as keypad opener, if the passcode is provided to the Township and central dispatch for 911 service) shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted. A safety plan shall be in place and updated regularly with the local fire department having jurisdiction over the Utility-Scale Wind Energy System.

9. Noise. All sound measurements are to be instantaneous and shall not be averaged. The noise generated by a Utility-Scale Wind Energy System shall not exceed the following limits:

a. 40 dBA Lmax, as measured at the property line, between the hours of 7:00 a.m. and 9:00 p.m.

b. 35 dBA Lmax, as measured at the property line, between the hours of 9:00 p.m. and 7:00 a.m.

c. The owner/operator of the Utility Scale Wind Energy System shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the applicant.

10. Underground Transmission. All power transmission, communication, or other lines, wires, or conduits from a Utility-Scale Wind Energy System to any building or other structure shall be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

11. Drain Tile Inspections. The Utility-Scale Wind Energy System shall be maintained in working condition at all times while in operation. The owner/operator shall hire, at its own expense, a third-party contractor approved by the Township to identify and inspect all drain tiles at least once every two years by means of a robotic camera, with the first inspection occurring post construction but before the Utility-Scale Wind Energy System is in operation. The owner/operator shall submit proof of the inspection to the Township. The owner/operator shall repair any damage or failure of the drain tile within 60 days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

12. Fire Suppression. The Utility-Scale Wind Energy System shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the Wind Energy System, including the turbines, electrical equipment, and transformers. The owner/operator shall provide documentation establishing the effectiveness of the fire suppression system and the results of a third-party independent inspection (approved by the Township) of the fire suppression system. The fire suppression system shall also be reviewed and approved by local EMS.

13. Battery Storage. Commercial grid storage batteries or capacitor banks storing or returning supplemental power to the grid are not permitted in the District. Use of Batteries in commercial applications is only permitted as emergency backup for safety lighting and related computer infrastructures.

14. A Utility-Scale WECS must not interfere with any radio, television, or other communication systems. If the Township or the applicant or operator of the Utility-Scale WECS receive a complaint about communication interference, the applicant or operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

15. Stray Voltage Assessments: No stray voltage originating from a Utility Scale Wind Energy System may be detected on any Participating or Non-Participating property. 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 the Participating Properties. The tests shall be performed by an investigator approved by the Township at the applicant/owner's expense. A report of the tests shall be provided to the owners of all property included in the study area. The applicant/landowner shall seek written permission from the property owners prior to conducting testing on such owners' property. Applicants/landowners shall not be required to perform testing on property 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 if they have a MDARD registered livestock facility on the Participating Property.

16. Drainage. Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management practices shall be managed within the property and on-site in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as- built drawings submitted following construction. Prior to the start of construction, any existing drain tile shall be inspected by a third-party contractor approved by the Township, at applicant/owner's expense by robotic camera and the imagery submitted to the Township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and Township. While the facility is in operation, the owner/operator shall reinspect the drain tiles every two years by robotic camera for any damage and shall repair any damage within 60 days of discovery. The owner/operator shall report the inspection, along with any damage and repair, to the Township within 90 days after each two-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the time of repair. Wind turbine support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

17. Access Routes. Access drives are subject to the approval of the Livingston County Road Commission to the extent of the Road Commission's jurisdiction. All access drives and roads within the site shall be adequately maintained for emergency vehicle use, including winter maintenance.

18. The owner/operator 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.

19. Signs. Signs are permitted but shall comply with Article 22. The lot shall include at least one sign identifying the owner and providing a 24-hour emergency contact telephone number.

20. Emergency Action Plan and Training. Before the Utility Wind Energy System is operational, the owner/operator shall provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel. All training must be consistent with current industry standards. The emergency plan will be a public record.

21. Decommissioning and/or Abandonment.

a. If a Utility-Scale Wind Energy System is abandoned or otherwise non-operational for a period of six months, the owner/operator shall notify the Township and shall remove the system within six months after the date of abandonment. Removal requires receipt of a demolition permit and full restoration of the site in accordance with the provisions of this Ordinance and to the satisfaction of the Zoning Administrator. Decommissioning shall include the removal of each turbine, all buildings, electrical components, foundations and roads, as well as any other associated facilities. The site shall be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Wind Energy System that is never fully completed or operational if construction has been halted for a period six months.

b. The decommissioning plan shall be written to provide security to the Township for 125% of the cost to remove and dispose of all turbines, removal of all wiring, footings, and pilings, (regardless of depth), and restoration of the land to its original condition. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once the value of decommissioning is determined, it shall be updated on a periodic basis of not less than every 2 years and additional security shall be required based on the average inflation rate of the preceding 2 years.

c. All abandonment and decommissioning work shall be done when soil is dry as determined by a third-party soil expert approved by the Township at the applicant/owner's expense.

d. The ground shall be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the owner/operator. A baseline soil test including Cation Exchange Capacity (CEC) shall be conducted and provided to the township in the decommissioning process, and any negative variations from the pre-construction soil test must be remedied.

e. If land balancing is required, all topsoil will be saved and spread evenly over balanced area according to the existing topography map provided at the time of application.

f. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if the use is to cease, prior to decommissioning, or abandonment.

g. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Wind Energy System exists or is in place shall constitute a material and significant violation of the Special Land Use Permit, and this Ordinance, and will subject the Utility Wind Energy System owner/operator (jointly and severally, if more there is more than one owner or operator) to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.

h. The Township shall have the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the owner/operator or landowner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property owned by the owner/operator or landowner for the amount of the excess, and to take all steps allowed by law to enforce said lien.

i. At the time of decommissioning, the Planning Commission may allow deviations from the above decommissioning requirements following notice and a public hearing in accordance with Section 103 of the Zoning Enabling Act.

22. Complaint Resolution. Utility Wind Energy Systems shall provide a complaint resolution process, as described below:

a. The site shall have signs posted with contact information to collect complaints related to the Utility Wind Energy System.

b. A log shall be kept by the owner/operator of all complaints received and shall be available to Township officials for review at the Township's request.

c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.

d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.

e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

23. Maintenance and Repair

a. Each Utility-Scale Wind Energy System shall be kept and maintained in good repair and condition at all times and the site shall be neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions. All wind turbines damaged beyond repair or use shall be replaced and removed from the project site within seven (7) days and shall be disposed of off-site in accordance with any state or federal requirements. Applicant/owner may

request an extension of this seven-day requirement, in writing, which may be granted at the discretion of the Planning Commission.

b. If the Township Board or Zoning Administrator determines that a Utility Scale Wind Energy System fails to meet the requirements of this Ordinance or the Special Land Use Permit, the Zoning Administrator or Township Board shall provide notice to the owner/operator of the non-compliance, and the owner/operator has 14 days to cure the violation. If the violation is a safety hazard as determined by the Zoning Administrator or Township Board, then the owner and/or operator has 7 days to cure the violation. If the owner and/or operator has not remedied non-compliance issues in the aforementioned time periods, the owner/operator shall immediately shut down the Utility Scale Wind Energy System and shall not operate, start or restart the Utility Scale Wind Energy System until the issues have been resolved. If the owner/operator fails to bring the operation into compliance, the Township may seek relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation. Each violation for which the owner/operator are deemed responsible shall result in a $500.00 fine. Each day shall constitute a new violation.

c. The owner/operator shall keep a maintenance log on the wind turbine(s), which shall be available for the Township's review within 48 hours of such request.

d. General Maintenance Bond. At the time of the Special Land Use application, the owner/operator 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. A performance bond in the amount of 125% of the higher bid shall be provided to the Township in cash to ensure completion. The Township may use the bond to complete or repair any landscaping, fencing, or drainage infrastructure (including drain tiles).

24. Extraordinary Events. If the Utility-Scale Wind Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the owner/operator shall notify the Township within 8 hours.

25. Annual Report. The owner/operator shall submit a report on or before November 1 of each year that includes all of the following:

a. Amount of electric generation;

b. Current proof of insurance with the township and Participating Property owner(s) shown as named insured;

c. Verification of financial security; and

d. A summary of all complaints, complaint resolutions, and extraordinary events.

Additionally, a representative of the owner/operator shall appear before the Planning Commission annually to report on the Utility-Scale Wind Energy System and address questions or concerns from the Planning Commission.

26. Inspections. The Township may inspect a Utility-Scale Wind Energy System at any time by providing 24 hours advance notice to the owner/operator.

27. Transferability. A special use permit for a Utility-Scale Wind Energy System is transferable to a new owner. The new owner shall register its name, Federal Employer Identification Number, and business address 30 days prior to the transfer date with the Township and shall comply with this Ordinance and all approvals and conditions issued by the Township. In the event of a sale or transfer of ownership and/or operation of the wind facility, the original escrow shall be maintained throughout the entirety of the process and shall not be altered.

28. Site Plan Amendments.

a. Site plan amendments must comply with sections 20.08 and 20.11. The following amendments require Planning Commission approval:

1. Changes of the location of turbines, fencing, buildings, or ancillary equipment by 10 feet or more.

2. Any increase in the height of wind turbines.

29. Remedies. If an owner/operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may issue a "stop work" order until the owner/operator in compliance with the Ordinance. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

D. Wind Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Wind Energy Systems with a nameplate capacity of 100 megawatts or more. To the extent these provisions conflict with the provisions in subsections A through C above, these provisions control as to such Wind Energy Systems. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise no in effect and does not apply to Wind Energy Systems with a nameplate capacity of less than 100 megawatts. All provisions in subsections A through C above that do not conflict with this subsection remain in full force and effect.

a. *Setbacks.* Wind Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	**Setback Distance**
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way

Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

b. *Shadow Flicker*. Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.

c. *Height*. Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

d. *Noise.* The Wind Energy System must not generate a maximum sound in excess of 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.

e. *Lighting.* The Wind Energy System must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:

a. The purpose of the exemption.

b. The proposed length of the exemption.

c. A description of the light-mitigating technologies submitted to the Federal Aviation Administration.

d. The technical or economic reason a light-mitigating technology is not feasible.

e. Any other relevant information requested by the Township.

f. *Radar Interference.* The Wind Energy System must meet any standards concerning radar interference, lighting (subject to subparagraph (v)), or other relevant issues as determined by the Township.

g. *Environmental Regulations.* The Wind Energy System must comply with applicable state or federal environmental regulations.

h. *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 Wind Energy System owner must pay the Township $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 for other projects as agreed to by the local unit and the applicant.

Section 5. Validity and Severability.

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 seven days after publication as provided by law.

MAP A

OVERLAY DISTRICT BOUNDARIES

COHOCTAH TOWNSHIP

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS

The Township of Cohoctah ordains:

Section 1. Add Definitions to Section 2.02

The following definitions are added to Section 2.02 of the Zoning Ordinance, and will be placed in the Zoning Ordinances so that all definitions are in alphabetical order:

A. Battery management system: An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

B. Utility-scale battery energy storage facilities: One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").

C. Utility-Scale Battery Energy Storage System: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

Section 2. Add New Section 13.28 entitled "Utility-Scale Battery Energy Storage Systems"

Section 13.28, entitled "Utility-Scale Battery Energy Storage Systems," is added to Article XIII of the Township's Zoning Ordinance. The section reads in its entirety as follows:

Section 13.28 Utility-Scale Battery Energy Storage Systems.

A. General Provisions. All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

1. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems"

2. The Township Planning Commission may issue a "stop work" order or order to cease operations to any Utility-Scale Battery Energy Storage System that does not comply with this Ordinance.

3. Utility-Scale Battery Energy Storage Systems are permitted in the Township as a special use in the following zoning districts:

a. Light Industrial LI

B. Application Requirements. The applicant for a Utility-Scale Battery Energy Storage System must provide the Township with all of the following:

1. Application fee in an amount set by resolution of the Township Board.

2. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.

3. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.

4. Current photographs of the subject property.

5. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.

6. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.

7. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.

8. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.

9. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.

10. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

11. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

12. A fire protection plan, which identifies the fire risks associated with the Utility-Scale Battery Energy Storage System; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.

13. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.

14. An attestation that the applicant 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 Energy Storage System, which is subject to the Township's review and approval.

15. Proof of environmental compliance, including compliance with 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.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township

16. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

C. System and Location Requirements.

1. *Minimum Acreage.* Utility-Scale Battery Energy Storage Systems must be located on parcels of land 40 acres in size or larger.

2. *Lot Area Coverage.* No more than 40% of the total lot area may be covered by a Utility-Scale Battery Energy Storage System.

3. *Setbacks.* Utility-Scale Battery Energy Storage Systems must be set back at least 500 feet from all lot lines and public road rights-of-way. If a single Utility-Scale Battery Energy Storage System is located on more than one lot, then the lot-line setbacks of this subsection do not apply to the lot lines shared by those lots.

4. *Screening.* Greenbelt screening is required around any Utility-Scale Battery Energy Storage System and around any equipment associated with the system to obscure, to the greatest extent possible, the Utility-Scale Battery Energy Storage System from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a

visual screen. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque and that meets the requirements of this Ordinance applicable to fences may be used if approved by the Planning Commission.

5. *Lighting.* Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The Utility-Scale Battery Energy Storage System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

6. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning sings must be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Battery Energy Storage System.

7. *Noise.* The noise generated by a Commercial Utility-Scale Battery Energy Storage System must not exceed 40 dBA Lmax / A-weighted scale, as measured at the property line of any adjacent parcel / nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property.

8. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

9. *Drain Tile Inspections.* The Utility-Scale Battery Energy Storage System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Utility-Scale Battery Energy Storage System is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

10. *Fire Protection.*

a. Before any construction of the Utility-Scale Battery Energy Storage System begins, the Township's fire department (or fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application under Section (B)(12) above. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township Supervisor of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Utility-Scale Battery Energy Storage System must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the

appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.

b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).

c. The Utility-Scale Battery Energy Storage System must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).

11. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least $5 million per occurrence.

12. *Permits.* All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating.

13. *Decommissioning.* If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within 90 days after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of 180 days.

14. *Financial Security.* To ensure proper decommissioning of a Commercial Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

15. *Extraordinary Events.* If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 8 hours.

16. *Annual Report.* The applicant or operator must submit a report on or before November 1 of each year that includes all of the following:

a. Current proof of insurance;

b. Verification of financial security; and

c. A summary of all complaints, complaint resolutions, and extraordinary events.

d. Written notice of any change or addition of equipment.

17. *Inspections.* The Township may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.

18. *Transferability.* A special use permit for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

19. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

20. *Height Restriction.* Containers shall be stacked on top of each other. Container must be in a single layer only and limited to the average industry standard height for a storage container.

21. *Complaint resolution.* Utility-Scale Battery Energy Storage Systems shall provide a complaint resolution process, as described below:

a. The site shall have signs posted with contact information to collect complaints related to the Utility-Scale Battery Energy Storage System.

b. A log shall be kept by the owner/operator of all complaints received and shall be available to Township officials for review at the Township's request.

c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.

d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.

e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

D. Utility-Scale Battery Energy Storage Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Utility-Scale Battery Energy Storage Systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours or more. To the extent these

provisions conflict with the provisions in Sections A through C above, these provisions control as to such Utility-Scale Battery Energy Storage Systems. This subsection does not apply if PA 233 is repealed, enjoined, or otherwise not in effect and does not apply to Utility-Scale Battery Energy Storage Systems with a nameplate capacity of less than 50 megawatts and an energy discharge capability of less than 200 megawatt hours. All provisions in subsections A-C above that do not conflict with this subsection remain in full force and effect.

1. *Setbacks.* Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, 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. *NFPA Standard.* Utility-Scale Battery Energy Storage Systems must comply with the version of NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems" in effect on the effective date of the amendatory act that added this section or any applicable successor standard adopted by the commission as reasonable and consistent with the purposes of this subdivision.

3. *Noise.* The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess of 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 Energy Storage System must implement dark sky-friendly lighting solutions.

5. *Environmental Regulations.* The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.

6. *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 Energy Storage System owner must pay the Township $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 for other projects as agreed to by the local unit and the applicant.

Section 3. Amend Section 11.03.

Section 11.03 of the Zoning Ordinance is amended to add the following use permitted by special use permit with conditions in the Light Industrial zoning district:

- Utility-Scale Battery Energy Storage System

Section 4. Validity and Severability.

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 5. 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 6. Effective Date.

This Ordinance takes effect seven (7) days after publication as provided by law.

COHOCTAH TOWNSHIP

ORDINANCE NO.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE SOLAR ENERGY SYSTEMS IN ACCORDANCE WITH PA 233 OF 2023

The Township of Cohoctah ordains:

Section 1. Purpose

The Township adopts this Ordinance to render certain solar energy zoning regulations compatible with Public Act 233 of 2023 ("PA 233"), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety, and welfare of Township residents.

Section 2. Amendment of Section 13.27, Solar Energy Systems

Section 13.27 of the Township Zoning Ordinance, entitled "Solar Energy Systems," is amended to add new subsection "D," which reads as follows in its entirety:

D. Utility-Scale Solar Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more, which shall only be allowed in the Solar Energy System Overlay District by special use permit. To the extent the following provisions conflict with the provisions in subsection C above ("Utility-Scale Solar Energy Systems"), the provisions below control as to such Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more. All provisions in subsection C above that do not conflict with this subsection remain in full force and effect and shall be applicable to all Utility-Scale Solar Energy Systems regardless of nameplate capacity. The following provisions do not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to Utility-Scale Solar Energy Systems with a nameplate capacity of less than 50 megawatts.

a. *Setbacks.* Utility-Scale Solar Energy Systems must comply with the following minimum setback requirements, 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

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

c. *Height.* Solar panel components must not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.

d. *Noise.* The Utility-Scale Solar Energy System must not generate a maximum sound in excess of 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.

e. *Lighting.* The Utility-Scale Solar Energy System must implement dark sky-friendly lighting solutions.

f. *Environmental Regulations.* The Utility-Scale Solar Energy System must comply with applicable state or federal environmental regulations.

g. *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 System owner must pay the Township $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 for other projects as agreed to by the local unit and the applicant.

Section 3. Validity and Severability.

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 4. 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.