

**DOUGLASS TOWNSHIP
COUNTY OF MONTCALM**

Minutes of a regular meeting of the Township Board of the Township of Douglass, Montcalm County, Michigan, held in the Douglass Township Hall, located at 3521 W. McBrides Road, Stanton, Michigan, on the _____ day of _____, 2023, at 7:00 p.m., Local Time.

PRESENT: Members: _____

ABSENT: Members: _____

The following ordinance was offered by Member _____ and seconded by Member _____.

ORDINANCE NO. 2023-_____

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO PERMIT AND REGULATE SOLAR ENERGY CONVERSION SYSTEMS**

The Township of Douglass ordains:

Section 1. Approval Standards for Solar Energy Systems.

Section 12.06 of the Zoning Ordinance of the Township of Douglass (The “Township”) is hereby amended by the addition of Approval Standard 22, which shall read in its entirety as follows:

APPROVAL
STANDARD

22. USE: SOLAR ENERGY SYSTEMS (“SES”)

Section 1. Definitions

- A. Array: Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.
- B. Building Integrated Photovoltaic (BIPV) Systems: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade, and which does not alter the relief of the roof.
- C. Catastrophic Event: A malfunction of the operating system of a Solar Energy System.
- D. Ground-Mounted Solar Energy System: A solar energy system that is installed directly in the ground and is not attached or affixed to a structure.
- E. Industrial Solar Energy System: A solar energy system located on a parcel of 40 acres or more which is designed and constructed primarily to produce electrical energy for off-site uses or wholesale or retail sale back into an electrical energy grid system to generate electricity to any person or entity.

- F. Non-Participating Parcel: A parcel of land whether or not within the Township that is not subject to a level 2 or 3 solar energy system lease or easement or other contractual agreement at the time an application is submitted for a Special Land Use Permit for the purposes of developing and constructing a level 2 or 3 solar energy system.
- G. Onsite Solar System: A solar energy system mounted on a building or on the ground and located on a parcel containing a principal use and intended to provide energy solely for on-site uses except for surplus energy back to the electrical grid. An onsite solar system is considered an accessory use of the parcel.
- H. Participating Parcel: A parcel of land within the Township that is subject to a level 2 or 3 lease or easement or other contractual agreement at the time an application is submitted for a Special Land Use Permit for the purposes of developing and constructing a level 2 or 3 solar energy system.
- I. Photovoltaic (PV) Systems: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever sunlight strikes them.
- J. Qualified Professional: A third party representative with experience and training in the pertinent discipline who is agreed upon by the Township and the applicant.
- K. Rooftop Solar System: A solar energy system in which solar panels are mounted on top of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted.
- L. Solar access: The right of a property owner to have sunlight shine onto the property owner's land.
- M. Solar Collector: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
- N. Solar Energy System (SES): Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic, and concentrated solar. This definition does not include small devices or equipment such as solar powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.
- O. Solar Panel: A device for the direct conversion of solar energy into electricity.
- P. Solar-Thermal Systems: A system, which through the use of sunlight, heats water or other liquids for such purposes as space heating and cooling, domestic hot water, and heating pool water.
- Q. Wall-mounted Solar Energy System: A solar energy system that is installed flush to the surface of the wall of a permanent building.

Section 2. Solar Energy Systems (SES)

1. General Provisions. All SES are subject to the following requirements:

a. All SES must conform to the provisions of this Ordinance; all county, state, and federal regulations and safety requirements; all applicable building codes, county codes, and airport area zoning ordinances; and all applicable industry standards, including those of the American National Standards Institute (ANSI).

b. The granting of any permit for a SES does not constitute solar access rights.

c. An SES shall be constructed and placed so it does not create a glare for persons off site.

d. An SES shall be properly maintained at all times in accordance with the requirements of this Ordinance. Such maintenance shall include measures to maintain the original appearance of the structures, ensuring that the solar panels do not leak and that the ground cover beneath the panels does not become a visual nuisance or anything deemed catastrophic by the Township Engineer.

e. An SES shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the Township prior to installation.

f. An SES and the installation and use thereof, shall comply with all applicable Township, state, and federal laws, codes and regulations, and obtain applicable Montcalm County, State of Michigan and federal permits.

g. Any SES that is not operated or not producing electricity for a continuous period of six months as determined by the Township shall be considered abandoned or non-functional and subject to removal. Upon a determination by the Township that a SES should be decommissioned and within 90 days of receipt of written notification from the Township, the owner/operator shall begin to remove the SES from the site in accordance with the approved decommissioning plan.

h. The Township may revoke any approvals for, and require the removal of, any SES that does not comply with this Ordinance.

i. SESs are not permitted on lands enrolled in the PA 116 Farmland and Open Space Preservation Act program or any other farmland/agricultural incentive programs (such as Michigan Agriculture Environmental Assurance Program or Conservation Reserve Program) and any amendments and replacements of such programs.

2. Requirements for Rooftop and Wall Mounted SES

a. Roof and wall mounted onsite SES are a permitted accessory use in all zoning districts subject to review and approval by the Building Official and require a building permit. Applicants shall submit an accurate sketch plan to the Building Official providing the location of the building, location of the SES, the height of the SES including a data sheet and installation instructions from the equipment manufacturer and other information as requested by the Building Official. The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

b. Roof mounted SES shall not project more than five feet above the highest point of the roof, and in any case, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.

c. Roof and wall mounted SES shall be securely and safely attached to a building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Building Official prior to installation. Such proof shall be subject to the Building Official's approval.

d. Wall-mounted SES shall not exceed the height of the building wall to which they are attached.

e. Wall-mounted SES may be mounted on a building wall that faces upon a public or private street.

f. Wall and roof mounted SES shall be properly maintained in good repair and condition at all times, so they maintain their original appearance and do not pose a potential safety hazard.

3. Level 1 Onsite Ground Mounted SES (Level 1 SES)

a. **Permitted Zoning Districts and Size.** A Level 1 Onsite Ground Mounted Solar Energy System generally provides energy for onsite uses. This type of system is allowed in all zoning districts except the Lake Residential Zone as a permitted accessory use and structure subject to review and approval by the Building Official and requires a building permit according to the following requirements:

1. The parcel proposed for the Level 1 Onsite SES shall contain an existing main building.

2. The area occupied by a Level 1 Onsite SES shall not exceed 5,000 sq. ft. The measurement shall be taken around and at the outer edge of the perimeter of the solar panels.

b. **Application:** Applicants shall submit an accurate sketch plan to the Building Official illustrating property lines of the parcel, buildings on the parcel, wetlands or bodies of water on the site and within 100 feet of the site, the proposed setbacks and height of the SES including a data sheet from the equipment manufacturer and other information as requested by the Building Official.

c. **Location and Setbacks.** A Level 1 Onsite SES may be located in the front, rear and side yards subject to the following minimum setbacks:

1. *Front:* A minimum of 100 feet from each front lot line.

2. *Side and rear:* A minimum of 20 ft from the side and rear lot lines.

3. The Building Official may require a greater setback to ensure compatibility with adjacent land uses.

4. *Measurement* shall be taken from the lot line to the edge of the **closest** solar panel.

d. Height: A Level 1 Onsite SES shall not exceed a height of **8** feet when oriented at maximum tilt.

e. Screening: Greenbelt screening is required around any Level 1 Onsite Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the SES from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen equal to the height of the solar panels, including the option of combining and/or staggering a fence, berms, trees, with a waiver option for neighbors to sign if they agree to lower height. Any such waiver shall be recorded with the Montcalm County Register of Deeds. All greenbelt items must be maintained for the life of the project, including replacing dead trees. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque (meeting the requirements of this Ordinance applicable to fences) may be used if approved by the Zoning Administrator.

f. Lot Area Coverage: No more than 20% of the total lot area may be covered by a Level 1 Onsite Solar Energy System.

4. Level 2 Ground Mounted SES Allowed by Special Use Permit (Level 2 SES)

a. Permitted Zoning Districts and Size: A Level 2 Onsite Ground Mounted Solar Energy System shall only occupy an area at least 5,000 sq. ft. but no more than 5 acres and is allowed in all zoning districts except the Lake Residential Zone as a permitted accessory use subject to review and approval of a Special Use Permit by the Planning Commission in accordance with the requirements and procedures of Chapter **12** herein and the following requirement: The parcel proposed for the Level 2 Onsite SES shall contain an existing main building.

b. Location and Setbacks: A Level 2 Onsite SES may be located in the front, rear and side yards subject to the following minimum setbacks:

1. *Front setback:* A minimum of 100 feet from each front lot line.
2. *Side and rear setback:* A minimum of 100 feet from the side and rear lot lines.
3. The Planning Commission may require a greater setback to ensure compatibility with adjacent land uses.
4. *Wetlands and bodies of water:* A minimum setback of 500 ft.
5. *Measurement* shall be taken around and at the outer edge of solar panel closest to lot line

c. Height: A Level 2 Onsite SES shall not exceed a height of **10** feet when oriented at maximum tilt.

d. Surface Material: The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or covered with any other surface material that is impervious to rainwater.

e. Type of Panel: The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

f. Electrical Interconnections: All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the Township of approval from the applicable utility company.

g. Transmission Lines: Use of above ground transmission lines shall be prohibited within the site unless required by the offsite utility company which is receiving the energy produced by the Level 2 Onsite SES.

h. Decommissioning: A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the SES, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the SES and restore the subject parcels, which is subject to the Township's review and approval shall be provided as required by this Ordinance. This plan shall not exceed **6 months**.

i. Lot area coverage: No more than **20%** of the total lot area may be covered by a Level 2 Onsite SES.

k. Screening: Greenbelt screening is required around any Level 2 Onsite Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the SES from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen equal to the height of the solar panels, including the option of combining and/or staggering a fence, berms, trees, with a waiver option for neighbors to sign if they agree to lower height. Any such waiver shall be recorded with the Montcalm County Register of Deeds. All greenbelt items must be maintained for the life of the project, including replacing dead trees.

l. Maximum Noise Levels:

1. Maximum Noise Levels. Noise levels produced by the SES must not exceed Maximum sound levels: 30 Dba LMAX from 10:00 p.m. to 7:00 a.m. or 40 Dba LMAX from 7:00 a.m. to 10:00 p.m. on a Non-Participating Parcel. The Township Board may, in its sole discretion, allow a higher noise level only if the owner of the Non-Participating Parcel signs a waiver consenting to a specific higher noise level and the waiver is recorded with the Montcalm County Register of Deeds.
2. Noise levels produced by the SES must not exceed 40 Dba LMAX from 10 pm to 7 am or 45 Dba LMAX from 7 am to 10 pm at the exterior of an inhabited structure on a Participating Parcel. The Township Board may, in its sole discretion, allow a 5 db higher noise level only if the owner of the Participating Parcel signs a waiver consenting to the higher noise level and the waiver is recorded with the Montcalm County Register of Deeds.

3. Measurable Infrasonic Acoustic Sound Pressure Levels. Measurable infrasonic acoustic sound pressure level from the SES must be less than 30 Dba from 10:00 p.m. to 7:00 a.m. and 40 Dba from 7:00 a.m. to 10:00 p.m. on a Non-Participating Parcel and 40 Dba from 10 pm to 7 am and 45 Dba from 7 am to 10 pm on a Participating Parcel as totalized in the range of 0.1-20 Hz, using low-pass filtering, or by computing the log-subtraction of the Fast, C-weighted (dB(C) level from the Fast, unweighted SPL, at any location, outdoors or indoors, on any Non-Participating Parcel. Time-level-averaging, if used, must be limited to 1-second or faster sampling. A minimum sampling rate of at least 10 times per second is required.

m. Complaint Resolution Plan: A plan for resolving complaints from the public or other property owners concerning the construction and operation of the SES in compliance with this Ordinance is required.

5. Industrial Solar Energy Systems (ISES) (Level 3 ISES)

a. Permitted Zoning Districts. An ISES provides energy exclusively for offsite uses and is permitted in the **AG/RE and Industrial Zoning Districts** subject to review and approval of a Special Use Permit by the Planning Commission in accordance with the requirements and procedures of Chapter 12 herein.

b. **Application Requirements:** In addition to the site plan required by this Ordinance, the applicant and the ISES must provide and meet the following requirements:

1. *Proof of lease or purchase agreement* for the parcel containing the proposed ISES.
2. *Type of solar panel* to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.
3. *Characteristics:* Identify the type, size, rated power output, performance, safety and noise characteristics of the system.
4. *Name and address* of the manufacturer, and model of the ISES.
5. *Permits:* A list of all permits such as a soil erosion, drainage, building, electrical and other permits required by County, State and Federal agencies to install the ISES.
6. *Project details:* Identify installation time frame, project life, development phases, likely markets for the generated energy, and possible future expansions.
7. *Elevation drawings,* detailed computer and/or photographic simulations and other models and visual aids showing the ISES with all related facilities as they will appear on the proposed site.

8. *Maintenance*: A written description of the maintenance program to be used to maintain the ISES, type of ground cover and necessary maintenance, and the anticipated construction schedule.

9. *Digital versions* of all planning and construction documents required pursuant to Chapter 12, Site Plan Review. Digital submittals are in addition to paper plans and do not replace any current submission requirements. Digital versions shall be submitted in PDF (Adobe Acrobat/Portable Document File) format.

10. *Glare*: Evidence that the ISES will not create a glare for persons off site or airplane operators.

11. *Distance* from the proposed ISES solar panels to the nearest habitable dwelling unit on a parcel which does not contain the ISES.

12. *Security*: A security plan detailing on-site security provisions which may include fencing, full-time security guards, video surveillance, and similar methods.

13. *Construction waste*: A construction waste management plan detailing the methods of waste disposal of the cardboard, wood, scrap metal, and scrap wire resulting from construction of the ISES.

14. *Landscaping*: A landscaping plan illustrating the number, size, type and spacing of trees proposed to screen the ISES from nearby roadways.

15. *Additional information* as required by this Ordinance, or as may be required by the Planning Commission.

16. *The Planning Commission* may waive or modify the above requirements at the request of the applicant/owner/operator if the Commission determines that those items would not be needed to properly review the project.

17. *Complaint Resolution Plan*. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the ISES in compliance with this Ordinance is required. A three-member committee consisting of the Township's Zoning Administrator and two members of the Planning Commission as appointed by the Township Board will investigate each complaint, with all expenses (including professional fees) drawn from the escrow account.

18. *Decommissioning*: A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the ISES, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the ISES and restore the subject parcels, which is subject to the Township's review and approval. This plan shall not exceed 6 months.

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

20. *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.

21. *Indemnification:* An attestation that the applicant/owner/operator 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 ISES, which is subject to the Township's review and approval.

22. *Hydrologic, Groundwater, and Soils Impact Study and testing:* A hydrologic, groundwater, and soils impact study and report and soil erosion plan, all prepared by a Qualified Professional must be submitted with the application. The soil erosion plan, and the hydrologic, groundwater, and soils studies must be approved before the construction can start. In addition, the owner or operator shall thereafter obtain annual ground water and soils testing as recommended and prepared by a Qualified Professional and the results shall be included in the annual report required under this Section 22. Such test results shall also be obtained and provided to the Township by the owner or operator of the ISES immediately following an Extraordinary Event, as defined in paragraph k below, and at such other times as the Township may reasonably require.

The SES company shall make reasonable efforts to minimize adverse impacts on water quality and soil erosion, during the construction phase and the life of the project. The construction, installation, operation, use, maintenance, repair and decommissioning of an ISES shall be in complete compliance with all applicable State and Federal environmental laws and regulations. Any environmental contamination, whether to the soils, ground water or otherwise, shall be promptly remediated as required under such laws and regulations. Should the owner or operator fail to do so, the Township shall have the right to pursue any and all remedies, including but not limited to, the revocation of permits and requiring the immediate removal of the entire ISES.

23. *Environmental Assessment.* A written environmental assessment or impact study conducted by a Qualified Professional, which must evaluate the impact of the proposed ISES on rare or endangered species, eagles, birds, wildlife, rare or endangered plant species, and waterways. The study must be based on data from within a three-mile radius of the Township's boundaries.

24. *Economic Impact Study.* A written economic impact study for the area affected by the ISES, including a forecast of the impact on jobs, tax revenue, lease payments, property values, and the growth of residential and business areas within the Township.

25. *Fire and Emergency Plan.* A written fire suppression and emergency response plan, as well as safety data sheets that include the type and quantity of all materials used in the operation of all equipment, including all lubricants and coolants. The fire and emergency plan shall also include information establishing that there is adequate access to local fire and emergency vehicle resources and/or fire suppression equipment at each ISES project to suppress any fire or emergency including fires at the ISES project.

26. *Stray Voltage Assessment.* A written report of stray voltage analyses, which must include a pre-construction stray voltage test performed by a Qualified Professional on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of the parcels on which the ISES will be constructed. The applicant must seek written permission from property owners prior to conducting testing on their property. The applicant is not required to perform testing on property for which the owners have refused to grant permission to conduct the testing.

c. Requirements for Industrial SES

1. *Mounting:* Industrial ISESs shall be ground mounted.
2. *Parcel size:* The minimum parcel size for an ISES shall be 40 acres. A parcel containing an ISES shall not require frontage on a public street.
3. *Setbacks:* The solar panels in an ISES shall comply with the following minimum setbacks:
 - i. Front setback: A minimum of 500 feet from each front lot line.
 - ii. Side and rear setback: A minimum of 500 feet from the side and rear lot lines.
 - iii. Minimum setback from wetlands, including creek bottoms measuring more than 5 acres is a minimum of 2640 feet.
 - iv. Minimum setback from any lake and the Flat River is 1 mile.
 - v. The ISES must be accessible by one or more access driveways to allow emergency vehicles in the event of a fire or other emergency. Access driveways/roads must be located at least 450 feet from any Non-Participating Parcel, unless the owner of the Non-Participating Parcel has signed a waiver that is recorded with the County Register of Deeds.
 - vi. Minimum setback is 100 feet from drains.
 - vii. The Planning Commission may require a greater setback to ensure compatibility with adjacent land uses.
4. *Height:* An ISES shall not exceed a height of 12 feet when oriented at maximum tilt.
5. *Transmission lines:* Use of above ground transmission lines shall be prohibited within the site unless required by the offsite utility company which is receiving the energy produced by the ISES.

6. *Safety/Access*: A security fence shall be placed around the perimeter of the ISES with a locked gate. Knox boxes and keys shall be provided at locked entrances for emergency personnel access subject to approval of the Township Fire Chief. The fence shall be chain link with three strands of barbed wire at the top and be at least six feet high.

7. *Interconnection*: The facility shall be designed for interconnection to a public utility electrical power grid and shall be operated with such interconnection. All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the Township of approval from the applicable utility company.

8. *Surface Materials*: The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or covered with any other surface material that is impervious to rainwater.

9. *Drainage System* shall include lined retention pond(s) designed to prevent potential contamination from reaching the nearest wetlands or bodies of water.

10. *Greenbelt Screening*: Plantings shall be installed around the perimeter of the parcel or parcels containing the ISES within 90 days or as otherwise approved by the Planning Commission. Two staggered rows running the length of the property line (where solar panels are present) that are 15 feet apart containing deciduous or conifer trees that are 15 feet apart (trunk to trunk) is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be of a species native to the area and shall be a minimum of 6 feet tall when planted and remain in good condition for the life of the project, including replacing dead trees.

11. *Lot Area Coverage*: No more than 20% of the total lot area may be covered by an ISES.

12. *Noise*. The noise generated by an ISES must not exceed the following limits:

i. Maximum Noise Levels. Noise levels produced by the ISES must not exceed Maximum sound levels: 30 Dba LMAX from 10:00 p.m. to 7:00 a.m. or 40 Dba LMAX from 7:00 a.m. to 10:00 p.m. on a Non-Participating Parcel. The Township Board may, in its sole discretion, allow a higher noise level only if the owner of the Non-Participating Parcel signs a waiver consenting to a specific higher noise level and the waiver is recorded with the Montcalm County Register of Deeds.

ii. Noise levels produced by the ISES must not exceed 40 Dba LMAX from 10 pm to 7 am or 45 Dba LMAX from 7 am to 10 pm at the exterior of an inhabited structure on a Participating Parcel. The Township Board may, in its sole discretion, allow a 5 db higher noise level only if the owner of the Participating Parcel signs a waiver consenting to the higher noise level and the waiver is recorded with the Montcalm County Register of Deeds.

iii. Measurable Infrasonic Acoustic Sound Pressure Levels. Measurable infrasonic acoustic sound pressure level from the ISES must be less than 30 Dba from 10:00 p.m. to 7:00 a.m. and 40 Dba from 7:00 a.m. to 10:00 p.m. on a Non-Participating Parcel and 40 Dba from 10 pm to 7 am and 45 Dba from 7 am to 10 pm on a Participating Parcel as totalized in the range of 0.1-20 Hz, using low-pass filtering, or by computing the log-subtraction of the Fast, C-weighted (dB(C) level from the Fast, unweighted SPL, at any location, outdoors or indoors, on any Non-Participating Parcel. Time-level-averaging, if used, must be limited to 1-second or faster sampling. A minimum sampling rate of at least 10 times per second is required.

13. *Noise Compliance.* The Township may, from time to time, measure whether the ISES is complying with the maximum noise levels under this Ordinance. Compliance measurements are the financial responsibility of the applicant or operator and must be independently performed by a Qualified Professional selected by the Township.

14. *Inverter barrier.* In addition to the above limitations, a sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not more than 10 feet apart, must be constructed to reduce noise levels surrounding all inverters. The berm must be no more than ten (10) feet from all inverters, must be at least as tall as all inverters but not more than three (3) feet taller than the height of all inverters.

15. *Drain Tile Inspections.* The ISES must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tiles at least once every three years by means of a robotic camera, with the first inspection occurring before the ISES 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.

16. *Road Repairs.* If any public or private roads are damaged as a result of the construction or operation of the SES, the applicant or operator must repair the damage at their expense pursuant to all County Road Commission requirements. Repairs must be performed within 90 days after construction is complete (but no more than 365 days after the damage occurs) or within 90 days after the damage occurs if the construction is already complete.

d. Decommissioning Plan: The applicant/owner/operator shall submit a decommissioning plan which shall address the following:

1. *Defined conditions* upon which decommissioning will be initiated (i.e., end of land lease, no power production for six months, obsolete equipment and similar circumstances).

2. *Useful life*: A description as to how the useful life of the system will be determined and who will make this determination.
3. *Removal* of all non-utility owned equipment, conduit, structures, fencing, roads, and building foundations.
4. *Restoration* of property to the condition prior to development of the ISES including measures to ensure that soils are not contaminated, as determined by an independent third party chosen by the Township at the expense of the applicant, during decommissioning.
5. *Timeframe* for completion of decommissioning activities in accordance with this Ordinance, not to exceed **6 months**.
6. *Cost Estimate*: An engineer's cost estimate for all aspects of the decommissioning plan kept current and updated every two years.
7. *Additional Agreements*: Description of any additional agreement with the landowner regarding decommissioning.
8. *Provisions* for updating the decommissioning plan.
9. *Responsibility*: A statement signed by the owner or operator that they take full responsibility for reclaiming the site in accordance with the decommissioning plan and the Special Land Use Permit upon cessation of use.
10. *Financial Guarantee*: The Planning Commission shall require that the applicant/owner/operator provide a financial guarantee to cover the costs of decommissioning the site in accordance with this Section 22.
11. *Fill /Cover*: The site must be filled and covered with clean, screened topsoil, free from contaminants and restored with a suitable cover crop, and restored to a state compatible with the surrounding vegetation.

e. Insurance:

1. *Indemnification*: The applicant/owner/operator/landowners shall indemnify, defend and hold harmless the applicant/owner/operator/landowners itself and **Douglass** Township, all as additional named insureds, against any and all claims arising out of the existence, operation or failure of the ISES.
2. *Liability*: The applicant/owner/operator/ shall procure comprehensive general liability, casualty, wrongful acts insurance policies, and any other policies customary to the solar energy system industry. This insurance shall be in the amount of \$10 million per occurrence. The Planning Commission may adjust these amounts periodically to reflect inflation.
3. *Maintenance*: The applicant/owner/operator/ shall maintain these insurances for the duration of the construction, operation, decommissioning, removal and site restoration of the ISES. The insurance carrier shall be instructed to provide **Douglass** Township with certificates of the existence of such insurances within 30 days (during which time the Township shall not be responsible for any liability,

casualty, or wrongful acts) and shall be instructed to notify the Township if such insurances expire for any reason. Failure of the applicant/owner/operator to maintain these insurances at all times may result in termination of the permit.

f. Certification of Compliance: The applicant/owner/operator shall provide certification to the Township that the applicant/owner/operator has complied or will comply with all applicable County, State and Federal laws and regulations before a building permit is issued by the Township.

g. Administration Costs Initial Application and Ongoing:

1. *Escrow:* For each ISES application, the applicant/owner/operator shall deposit into an escrow account the amount of \$25,000. The purpose of this joint escrow account is:

i. to reimburse **Douglass** Township for its costs incurred to hire consultants and experts as the Township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator.

ii. for the life of each ISES, to cover the administrative and legal costs incurred by **Douglass** Township in monitoring and enforcing the applicant/owner/operator/landowner's ongoing compliance with the Ordinance.

2. *Management:* The account shall be managed as follows:

i. funds can be withdrawn from this account only by the signature of a Township designee.

ii. if at any time the balance of this account shall fall below \$10,000, the applicant/owner/operator shall deposit additional funds to restore the account to a \$25,000 balance.

iii. if at any time the balance of this fund shall fall below \$10,000 for a continuous period of thirty days, the application shall be considered to have been withdrawn, or the permit for the ISES may be terminated.

iv. the Township Clerk or Township designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Commission. After the ISES has been removed and site restoration has been completed, as defined in this Ordinance, any balance remaining in this account shall be returned to the applicant/owner/operator.

h. Removal Cost Guarantee:

1. *Cost of removal and site restoration* is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the ISES and to restore the site, the following steps shall be followed:

- i. for each ISES, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount which shall be reviewed every two years and is subject to change per recommendation of the Planning Commission.
- ii. this money shall be deposited in an escrow account specified by **Douglass** Township, which may be an interest-bearing account. A surety bond, letter of credit, or other financial promise shall not be accepted.
- iii. withdrawals will be made from this account, solely by **Douglass** Township or its designee, only to pay for removal and site restoration of the ISES as provided for in this Ordinance.
- iv. any funds left in the account for each ISES after removal and site restoration shall be returned by **Douglass** Township to the applicant/owner/operator.
- v. this financial security must be posted within fifteen (15) business days after approval of the special land use application.

i. Transferability. A special use permit for an ISES 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.

j. Landowner Responsibility: In the event the ISES owner, operator, parent company, performance bond defaults on any or all of the previously outlined decommissioning requirements, the landowner of the Participating Parcel upon which each ISES is located (the "Participating Landowner") shall be responsible and liable for the removal of each ISES in accordance with this Ordinance. In the event the Participating Landowner fails to comply with the removal and decommissioning requirements, the Township shall have the right to remove the ISES at the expense of the Participating Landowner. If funding is not available to cover the costs of removal by the Participating Landowner, the Township is authorized to take legal action to pursue the seizure of Participating Landowner property(ies) to cover such costs.

k. Extraordinary Events. If the ISES experiences a failure, fire, storm damage, leakage of hazardous materials, vandalism, property damage, personal injury, or other extraordinary or catastrophic event, (an "Extraordinary Event"), the applicant or operator must notify the Township as soon as reasonably possible after the occurrence of any such event but not later than 24 hours thereafter.

l. Annual Report. The applicant or operator must submit a written report on or before January 1 of each year that includes all of the following:

1. *Current proof of insurance*
2. *Verification of financial security*
3. *Summary of all complaints, complaint resolutions, and extraordinary events*

4. *Description* of how the applicant or operator has complied with the written plans submitted in connection with its application.

5. *Results* of the environmental testing required under this Section 22.

6. Violations of Ordinance

- a. Following notice and an opportunity to be heard, the Township may revoke any approvals for, and require the removal of, any ISES that does not comply with this section 22 or Chapter 12.
- b. Violations: In addition to any other remedies in this section, violations of this Section 22 or Chapter 12 also constitute a municipal civil infraction in accordance with Chapter 21 of this Ordinance. Each day that a violation occurs or continues constitutes a separate offense and is subject to penalties or sanctions as a separate offense under Chapter 21.
- c. In addition to any other remedies set forth in this Ordinance, the Township may bring an action for damages or for an injunction or other action to restrain, prevent, or abate any violation of this Section 22.

Section 3. Industrial Solar Energy Systems as Special Land Use. Table 12.05.A of the Zoning Ordinance of the Township of Douglass is hereby amended by the addition of “Industrial Solar Energy Systems” to the list of special uses, which shall be designated as being subject to Approval Standard 22, and which shall be designated as being approvable only in the AG/RE and Industrial Districts.

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. Commercial Solar and Wind Energy Projects Moratorium Terminated. The moratorium imposed under Township Ordinance No. 2023-1 on the issuance of any and all permits, licenses, and approvals for any property in the Township for the establishment and use of Commercial Wind and Solar Energy Projects is hereby terminated.

Section 6. Repealer. All other ordinances inconsistent with the provisions of this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect .

Section 7. Effective Date.

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

AYES: _____

NAYS: _____

ORDINANCE DECLARED ADOPTED.

Holly Huff, Clerk
Township of Douglass

STATE OF MICHIGAN)
) ss.
COUNTY OF MONTCALM)

I, the undersigned, the duly qualified and acting Clerk of the Township of Douglass, Montcalm County, Michigan (the "Township"), do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board at a regular meeting on _____, 2023, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended.

IN WITNESS WHEREOF, I have hereto affixed by official signature on this _____ day of _____, 2023

Holly Huff, Clerk
Township of Douglass