

STATE OF MICHIGAN
IN THE COURT OF APPEALS

In the matter, on the Commission's own
motion, to open a docket to implement the
provisions of Public Act 233 of 2023

PSC Case No. U-21547

ALMER CHARTER TOWNSHIP, et al.

Court of Appeals No. 373259

Appellants,

v

MICHIGAN PUBLIC SERVICE
COMMISSION,

Appellee

and,

MICHIGAN ENERGY INNOVATION
BUSINESS COUNCIL, INSTITUTE FOR
ENERGY INNOVATION, CLEAN GRID
ALLIANCE, and ADVANCED ENERGY
UNITED,

Intervening Appellees,

BRIEF OF AMICUS CURIAE
NATIONAL GRID RENEWABLES DEVELOPMENT, LLC

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I. STATEMENT OF INTEREST OF AMICUS CURIAE

National Grid Renewables, LLC ("NG Renewables") is a utility-scale renewable energy development company with its headquarters in Bloomington, Minnesota. NG Renewables has developed over 2,000 megawatts of wind and solar projects that are either operational or currently under construction. The company also has a multi-gigawatt development pipeline of wind and solar projects in various stages of development throughout the United States, with over 97 utility-scale and community solar projects completed to date. As a farmer-founded and community-focused business, NG Renewables repowers America's electricity grid by reigniting local economies and investing in a sustainable, clean energy future.

NG Renewables files this brief in support of Appellee Michigan Public Service Commission (the "Commission") and Intervening Appellees Michigan Energy Innovation Business Council, Institute for Energy Innovation, Clean Grid Alliance, and Advanced Energy United (collectively "Intervening Appellees" and together with the Commission "Appellees").¹ NG Renewables has an extensive history with, and first-hand knowledge of, siting procedures and practices for renewable energy projects in Michigan. NG Renewables has spent years attempting to develop these projects in Michigan and has faced significant obstruction from local governments, including some Appellants. This resistance—purportedly justified under the guise of "local control"—has resulted in NG Renewables incurring multi-year delays and significant, unnecessary costs, including costs of litigation to compel local governments to comply with the law.

¹ Pursuant to MCR 7.212(H)(3), NG Renewables makes the following disclosures. First, Varnum LLP serves as counsel to Intervening Appellees and is the author of this Brief. Second, neither Varnum LLP nor Intervening Appellees made a monetary contribution to NG Renewables to fund the preparation or submission of the brief. Third, no person or entity other than NG Renewables will make a monetary submission to fund the preparation or submission of the Brief.

Because NG Renewables is on the front lines of developing renewable energy projects in Michigan and, under the prior local-siting regime, directly bore the cost of Appellant's obstructionism to clean energy development, the outcome of this case will directly impact NG Renewables. Moreover, private companies like NG Renewables have an interest in the predictability that comes when regulators properly interpret statutes and promulgate clear guidelines effectuating those statutes. Through their appeal, Appellants threaten that interest.

II. ARGUMENT

A. THE PURPOSE OF PA 233 IS TO FACILITATE THE BUILDOUT OF RENEWABLE ENERGY IN MICHIGAN.

In enacting 2023 PA 233 ("PA 233"), the Michigan Legislature made clear that the purpose of the statute was to "to promote the development and use of clean and renewable energy resources" by removing utility-scale renewable projects from the unpredictable local zoning process, where politics, disinformation, and NIMBY-ism often determines whether renewable energy projects are permitted and built. See MCL 460.1001(2); Senate Fiscal Agency Bill Analysis, HB 5120 & 5121 (November 8, 2023), p 2 (stating that the current local siting process "delayed the buildout" of renewable energy resources). For years, municipalities have sought to thwart the development of renewable energy via burdensome (and sometimes impossible) zoning restrictions, delays, and illegal moratoria. PA 233 ensures that, whether permitted at the state or local level, renewable energy projects will be held to uniform standards in a process that allows local input but prevents municipalities from engaging in exclusionary zoning tactics to foreclose the development of renewable energy altogether.

The Commission's October 10, 2024 Order ("October 10 Order") furthered these goals by establishing uniform standards for the Commission's application process.² Although the October

² NG Renewables directly participated in the development of the guidelines contained in

10 Order contains numerous important clarifications of the procedures for applying to site a utility-scale renewable project through the Commission, perhaps the most critical is the Commission's guidance regarding the "compatible renewable energy ordinances" ("CREOs") through which municipalities can continue to exercise local zoning authority over renewable energy projects. PA 223 defines a CREO as "an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in section 226(8) [MCL 460.1226(8)]." MCL 460.1221(f) (emphasis added).

Notably, PA 233 removes the oft-abused moratorium from the municipalities' anti-renewables toolbox, stating that "[a] local unit of government is considered not to have a compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction." *Id.* The October 10 Order clarified that, in this context, the phrase "no more restrictive" means that the CREO cannot (1) be more restrictive than PA 233 with regard to the specific standards set out in the statute, including, but not limited to setbacks, fencing, height, sound, and environmental compliance; or (2) contain additional requirements and restrictions not set out in PA 233. See Appellant's Appendix A, Oct. 10 Order at 17-18.

B. NG RENEWABLES' EXPERIENCES DEVELOPING UTILITY-SCALE RENEWABLES PROJECTS IN MICHIGAN ILLUSTRATES THE NEED FOR THE OCTOBER 10 ORDER.

NG Renewables has extensive experience in siting renewable energy projects in Michigan under the former local-siting regime, and it has been the victim of the inconsistency and arbitrariness that regime causes. Sometimes, NG Renewables happens to encounter local governments that are willing to collaborate and work with NG Renewables to ensure that local

the October 10 Order by submitting public comment regarding the Commission Staff's initial recommendations. NG Renewables also attended numerous stakeholder meetings with Commission staff to assist in the development of the application procedures.

interests are balanced with project development needs. But often, local governments will fight tooth-and-nail to prevent NG Renewables from partnering with local landowners to develop clean-energy facilities. This opposition is often the result of pressure by a small handful of outspoken residents living outside the project's footprint, many of which routinely threaten and execute recall petitions for local officials open to renewable energy development.

For example, Appellant White River Township represents a municipality that has done everything in its power to frustrate its citizens' ability to contract with NG Renewables to develop their property. The history of NG Renewables' Lakeside Solar Project in White River Township underscores the need for robust application of PA 233 and the utility of Commission's October 10, 2024 Order, and more specifically, its determination that a CREO cannot contain additional requirements or restrictions beyond those enumerated in PA 233.

1. The Development Of the Lakeside Solar Project.

Since 2019, NG Renewables, via its subsidiary, Lakeside Solar LLC, has worked to develop the Lakeside Solar Project in White River Township. A viable utility-scale solar project requires hundreds of acres, and the property must be located near necessary infrastructure (including a connection point to the electric grid that has sufficient capacity to accept additional power) and in an area where a power supplier is interested in purchasing power. Various environmental factors also matter, which requires the developer to commission studies to verify project feasibility and impacts. Studies include, but are not limited to, soil stability, drainage, and regulatory concerns, such as wetlands, streams, floodplains, and threatened and endangered species. The parcels must also satisfy specific topographical features that are required for a large-scale solar project, and not have significant tree cover that would shadow the solar panels. Developers like NG Renewables must, therefore, engage in extensive and exhaustive research when identifying potential locations for utility-scale renewables projects.

In or about 2019, NG Renewables identified White River Township as a viable location for a several-hundred-acre, utility-scale solar energy project. Because White River Township did not have a solar ordinance at that time, NG Renewables' efforts included collaborating with the Township to develop White River Township Ordinance No. 51-2019 (the "2019 Ordinance"),³ a comprehensive solar ordinance that governed the requirements for virtually every aspect of a solar energy project. NG Renewables, via Lakeside Solar, also entered into solar agreements with more than a dozen local landowners who wished to participate in the project. Nearly all of Lakeside project participants are local farmers, many of whom have farmed the same land for generations.

After the Township enacted the 2019 Ordinance, Lakeside prepared a Special Land Use ("SLUP") Application that was specifically designed to comply with the new ordinance. In connection with its SLUP Application, NG Renewables committed a tremendous amount of time and resources in furtherance of its proposed project and has, to date, spent more than \$2 million in development expenses for, among other items, non-refundable interconnection deposits, landowner payments, environmental surveys, land surveys, engineering, and permitting expenses. On November 16, 2022, Lakeside submitted to White River Township its SLUP Application to construct, own, and operate a utility-scale solar energy system that would meet all the Township's solar ordinance's criteria, the very same criteria that these two parties worked together to enact.⁴

³ A copy of the 2019 Ordinance is attached hereto as **Exhibit A**.

⁴ Because Lakeside's SLUP Application met all the criteria of the existing solar ordinance, the Township was required to grant an SLUP Permit pursuant to the ZEA. See MCL 125.3504 (requiring the approval of a special land use if the "request is in compliance with the standards stated in the zoning ordinance, the conditions of the zoning ordinance, other applicable ordinances, and state and federal statutes").

2. White River Township Prevents the Review of the Lakeside Project.

Although NG Renewables submitted a SLUP Application that was fully compliant with the 2019 Ordinance, White River Township reversed course after being influenced by anti-solar opposition groups and attempted to stymie the consideration and approval of the project at every turn:

- After receiving the SLUP Application and advising that the required public hearing would be scheduled, White River Township reversed course and claimed, without justification, that NG Renewables SLUP Application had never been "accepted" and therefore could not be scheduled for the public hearing that was required both by the Zoning Ordinance and the Zoning Enabling Act.
- White River Township then enacted an illegal, six-month police power moratorium that prevented the development of any solar projects in the Township to consider unspecified amendments to its already-comprehensive 2019 Ordinance.⁵
- After being advised that municipalities cannot suspend the operation of a zoning ordinance via the police power, White River Township enacted a second six-month moratorium via the procedures in the Zoning Enabling Act. The Township's only justification for the second moratorium was to vaguely assert that "questions exist[ed]" regarding the Solar Ordinance and whether it had "kept pace with development patterns, technological impacts."

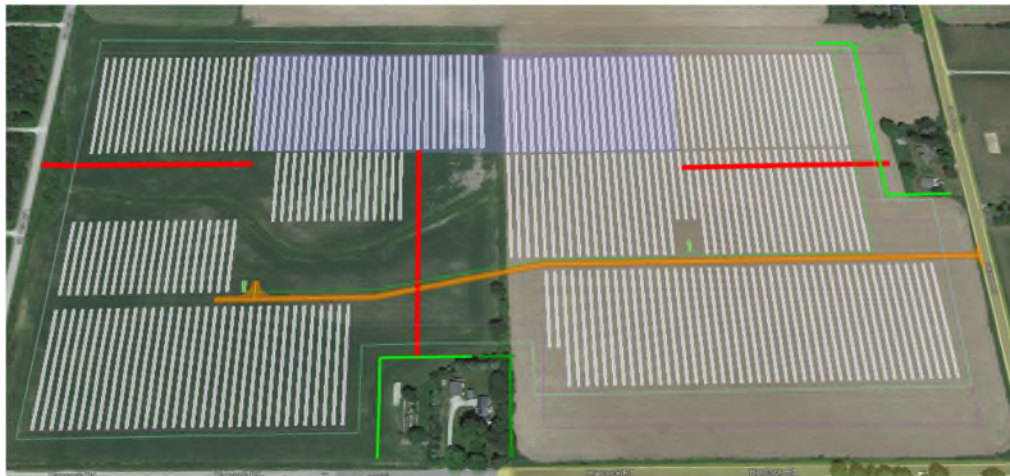
Lakeside was ultimately forced to file suit in the United States District Court for the Western District of Michigan to attempt to invalidate the illegal moratorium and force the Township, via a writ of mandamus, to finally grant its public hearing on its SLUP Application. See *Lakeside Solar, LLC v. White River Township*, Case No. 1:23-cv-212 (W.D. Mich.). Six weeks after the lawsuit was filed, in a bad faith attempt to render NG Renewables' Complaint moot, White River Township enacted a new solar ordinance (the "2023 Ordinance") that had the intended effect

⁵ In passing PA 233, the Legislature recognized the prevalence of municipalities abusing moratoria by declaring that any municipality with a moratorium in place would be deemed not to have a CREO. See MCL 460.1221(f).

of banning commercial solar projects in White River Township by making them economically impossible to develop.⁶ Highlights of the 2023 Ordinance include:

- A 600% increase in setback requirements for any component of the development, including fencing, from non-participating parcels (i.e. from 100 feet to 600 feet);
- A new provision limiting utility-scale solar projects from covering more than 5% of the total land in the Township; and
- Limiting any parcel to 80 acres of system coverage and preventing property owners with multiple parcels located within one mile of each other from having more than 80 acres in coverage across all parcels.

The two renderings below illustrate the effects of the 2023 Ordinance's exclusionary restrictions. The white hashed areas represent the original plan for the project, while areas shaded in lavender are the only usable areas under the 2023 Ordinance.



⁶ A copy of the 2023 Ordinance is attached hereto as **Exhibit B**.



In short, the 2023 Ordinance rendered it impossible for any developer to design an economically viable utility-scale energy project in White River Township. Once the exclusionary 2023 Ordinance was passed, White River Township argued that NG Renewables would have to re-apply under the new ordinance.

3. **White River Township Attempts To Prevent NG Renewables From Obtaining A Certificate From the Commission to Site the Lakeside Project Via A Purported "CREO."**

After the passage of PA 233 in November of 2023 and the failure of the ballot initiative attempting to repeal the statute, NG Renewables dismissed its lawsuit against White River Township to focus on permitting the project pursuant to the new statute. Like many developers, NG Renewables believed that PA 233 would offer it the opportunity to develop projects pursuant to consistent standards developed by experts in the field instead of contending with the obstructive and exclusionary tactics that defined the local siting process.

Unfortunately, rather than operate in good faith under the new statutory regime, White River Township, like many other municipalities, looked for new ways to resist development of renewable energy while ostensibly complying with the statute. On September 10, 2024, White

River Township enacted yet another solar ordinance, which the Township claims qualified as a CREO under PA 233. See **Exhibit C**, WRT Ordinance 61-2024. Appellants even cite to this purported CREO in their Brief on Appeal, ostensibly as an example of the various Appellants' efforts to work within the bounds of PA 233. See Appellants' Br at 11. On its face, the ordinance does adopt the setback, fencing, height, noise, lighting, and environmental standards in PA 233.

What Appellants do not mention in their Brief is that on the same day as it adopted the purported CREO, White River Township also amended its zoning ordinance to create a "renewable energy overlay district" as a means to prevent solar energy development in the vast majority of the Township. See **Exhibit D**, Ordinance No. 60-2024. The overlay completely negates the purpose of enacting the CREO in the first place: the new overlay district limits renewable energy development to a single contaminated brownfield site consisting of numerous capped landfills, buried chemical storage tanks, and chemical basins controlled by a single landowner.⁷ By limiting renewable energy development to a single brownfield site controlled by a single landowner, White River Township has created a situation where it can claim to have a CREO to prevent developers from proceeding directly to the Commission and can simultaneously render it impossible to develop a viable project within its borders. Because of White River's illegal bureaucratic maneuvering, NG Renewables now faces the prospect of losing the millions of dollars that it has invested in the Lakeside project. This will, in turn, lead to a loss of economic opportunity for the local farmers and community and a lack of clean energy in Michigan. Everybody loses.

⁷ The site is also heavily wooded, making it a poor candidate for solar development. Of the 939 acres that make up the site, 303 acres have 100% tree coverage and 636 acres have 75% - to 90% tree coverage.

C. THE DEVELOPMENT OF RENEWABLE ENERGY IN MICHIGAN WILL BE SIGNIFICANTLY HAMPERED IF THE OCTOBER 10 ORDER IS INVALIDATED.

The case of White River Township encapsulates the issues that have hamstrung the development of renewable energy in Michigan under local processes. Developers working all over Michigan have run up against the same obstructionism; a developer works in good faith with a township to ensure projects are developed in compliance with local ordinances, and then the municipality, urged on by anti-renewables activists, continually enacts procedural and legislative roadblocks, many of which violate Michigan law. Many developers have been forced to expend significant funds on litigation just to force municipalities to schedule a hearing on an application, much less obtain a decision. This oppressive system severely limits the number of projects that can be developed, as many project budgets cannot be stretched far enough to cover litigation that has become nearly inevitable for projects. This means that Michigan significantly behind on meeting the renewable portfolio standards in 2023 PA 235.

Invalidating the Commission's October 10 Order, and, in particular, the guidance regarding the requirements of a CREO, will mean more of the same.⁸ Numerous municipalities (including a number of Appellants) have already enacted severely restrictive overlay districts in the same

⁸ Importantly, the language of PA 233 supports the Commission's interpretation of CREO. See MCL 460 1221(f) ("Compatible renewable energy ordinance means an ordinance that provides for the development of energy facilities within the local unit of government, the requirements are no more restrictive than the provided included in section 226(8))"). Statutes must be interpreted by their plain language: no more restrictive means no more restrictive. See *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NE2d 119 (1999) ("The words of a statute provide the most reliable evidence of its intent . . ."). Nevertheless, invalidating the October 10 Order would effectively serve as an endorsement of the Appellant's position that they can impose impossible regulatory burdens on development as long as certain requirements are met, rendering the CREO requirement a nullity. See *In re MCI Telecom Complaint*, 460 Mich 396, 414; 596 NW2d 164 (1999) ("It is a maxim of statutory construction that every word of a statute should be read in such a way as to be given meaning, and a court should avoid a construction that would render any part of the statute surplusage or nugatory").

manner as White River Township. To invalidate the October 10 Order is to effectively invalidate PA 233, as it will allow municipalities to prevent developers from proceeding with applications to the MPSC while at the same time making it effectively impossible to develop utility-scale renewable energy in that jurisdiction. In short, Michigan will remain a state where local politics and NIMBY-ism stymies the state's policy and renewable energy goals.

III. CONCLUSION

Wherefore, for the foregoing reason, *Amicus Curiae* National Grid Renewables respectfully requests that the Commission's October 10 Order be affirmed.

Respectfully submitted,

VARNUM LLP

Dated: April 15, 2025

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CERTIFICATE OF COMPLIANCE

Pursuant to Michigan Court Rule 7.212(B)(1), I certify that the *Brief of Amicus Curiae National Grid Renewables Development LLC* contains 3,003 words, including headings, footnotes, citations, and quotations, according to the word count in Microsoft Word 365 (2019).

Dated: April 15, 2025

By: /s/ Brion B. Doyle
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Exhibit A

**WHITE RIVER TOWNSHIP
MUSKEGON COUNTY, MICHIGAN
(Ordinance No. 51-2019)**

At a regular meeting of the Township Board for White River Township held at the Township offices within the Township on December 10, 2019, at 7:00 p.m., the following Ordinance/ordinance amendment was offered for adoption by Township Board Member Anderson and was seconded by Township Board Member Harris:

**AMENDMENTS TO THE WHITE RIVER TOWNSHIP
ZONING ORDINANCE REGARDING SOLAR PANELS,
SOLAR ENERGY SYSTEMS AND RELATED USES AND
MATTERS.**

THE TOWNSHIP OF WHITE RIVER (the "Township") ORDAINS:

Article 1. The following new definition is hereby added to Section 2.2 of the White River Township Zoning Ordinance:

Solar Energy System (SES): Solar collectors, panels, controls, energy storage devices, heat pumps, heat exchangers, and/or 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 energy 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.

Article 2. Existing Section 3.45 of the White River Township Zoning Ordinance is replaced with the following language:

Section 3.45 Solar Panels, Solar Energy Systems and Similar Items.

Solar energy systems are allowed as follows:

- A. Building mounted solar energy systems are allowed on buildings in any zoning district. The total area of any such solar energy system shall not exceed 1,000 square feet on any dwelling or building and 5,000 square feet in total area on any bona fide farm or agricultural building. Solar energy systems comprising a larger area on any building shall be allowed only with special land use approval.
- B. Ground mounted solar energy systems are allowed in any zoning district so long as they do not exceed 1,000 square feet in area in total on any lot or parcel. Ground mounted solar energy systems between 1,000 square feet in total area per lot or parcel and 2,000 square feet in total area per parcel or lot are allowed in any zoning district with special land use approval. Ground mounted solar energy systems that equal or

exceed 2,000 square feet in total area on a given lot or parcel are only allowed within the C - Commercial, LI - Light Industrial and A - Agricultural zoning districts and must be approved as a special land use.

C. The following shall apply to all solar energy systems (except where a stricter requirement is specified by this Ordinance):

1. The solar energy system application shall include a sketch drawing depicting all lot line setbacks and the location of devices in addition to any other documents required by the Township.
2. The total amount of coverage of solar energy systems is limited to 20% of the total square footage of the parcel involved when the parcel is located in the R - Residential, WR - Waterfront Residential or CDO - Critical Dune Overlay zoning districts.
3. Any component of a solar energy system shall be set back a minimum of 15 feet from the side and 25 feet from the rear property boundaries, as well as 50 feet from the front property line.
4. No components of a solar energy system shall be located in the front yard of a residential zoning district. In addition, in the WR - Waterfront Residential and CDO - Critical Dune Overlay districts, no solar energy system component shall be located on the waterfront side of the property including wall surfaces facing the water.
5. Roof mounted solar systems shall not project past the peak of the roof and shall not exceed the maximum building height limitation. Solar energy system components shall not project beyond the eaves of the roof.
6. Security for components of a solar energy system is the responsibility of the property owner.
7. Following the operational life of the solar energy system, the property owner shall perform decommissioning and removal of the solar energy system and all components.
8. Height: The maximum height of a ground mounted solar energy system device shall not exceed twelve (12) feet above natural grade.
9. Glare: All solar energy system location/tilt components shall be designed and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway. Solar energy system designs shall comply with Federal Aviation Administration siting requirements.

10. Noise: No solar energy system generating component shall emit noise exceeding forty-five (45) dBA, as measured at the parcel's property boundary or road right-of-way.
11. Regardless of whether a particular provision of this Section 3.45 refers to the applicant, the lessee of land or the landowner, the property owner or landowner is ultimately responsible for compliance with this Ordinance.

Article 3. A new and additional Subsection 16.06MM is hereby added to the White River Township Zoning Ordinance as follows:

MM. Ground Mounted Solar Energy Systems.

1. Special land use approval is required as specified in Subsection 3.45 A and B hereof. The applicant shall also comply with all applicable federal, State of Michigan and county requirements, in addition to other applicable Township ordinances and codes. All plans, drawings or other material submitted for a solar energy system special land use approval shall be produced by licensed professionals appropriate for the materials.
2. The applicant shall comply with State of Michigan Construction Code (as adopted by the county) and the National Electric Code (NEC). In the event of a conflict between the State Building Code and National Electrical Code, the NEC shall prevail.
3. All components of a solar energy system shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (EIL), or a similar certification organization.
4. Except for building mounted solar energy systems, any component of a solar energy system shall not be located within 100 feet of the boundary of a property where a residential use is not participating in a solar energy system of the same or similar scale of energy production. In addition, if there is a residential use on the parcel where a solar energy system is established, any solar energy component shall not be located within 50 feet of the residence of that parcel.
5. Where a solar energy system abuts, or is across the road from, a residential use and such residential use is not screened by natural vegetation, the perimeter within 100 feet from the residence or property boundary shall be screened and buffered by landscaped earthen berm, or installed evergreen or native vegetative plantings.
6. Security for a solar energy system requires a completely enclosed perimeter security fence to restrict unauthorized access. Fencing shall not exceed eight (8) feet in height, unless approved by the Planning Commission. Use of barbed-wire fencing requires Planning Commission approval. Electric fencing is not permitted. Fencing in excess of eight (8) in height feet may be required to be setback further from the road right-of-way. Any substation or support structures and related electrical

transmission equipment buildings shall be further secured with additional fencing and security measures, locks, and restricted access. Any public roadways or access points to the parcel shall have additional fencing and/or restricted access measures.

7. Distribution, Transmission, and Interconnection: All collection lines and interconnections within the solar energy system shall be located and maintained underground, unless above ground installation is approved by the Planning Commission. This requirement excludes transmission lines and equipment meant to connect the project inverter(s) to the project substation and public utility substation off site from the solar energy system on the property, all of which may be above ground.
8. Height: The maximum height of a free-standing Solar Energy System device shall not exceed twelve (12) feet above natural grade. Other solar energy system components and buildings such as any substation and related electrical transmission equipment cannot exceed the maximum allowed height of 35 feet as measured from the natural grade at the base of the solar energy system component to the tip when extended at maximum tilt.
9. Glare: All solar energy system location/tilt components shall be designed and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway. Solar energy system designs shall comply with Federal Aviation Administration siting requirements.
10. Noise: No solar energy system generating component shall emit noise exceeding forty-five (45) dBA, as measured at the exterior parcel boundary or existing road right-of-way line.
11. Lighting: Exterior lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties, focused in a downward fashion, and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
12. Advertising: No advertising or non-project graphics shall be permitted on any part of the solar energy system or other components. This exclusion does not apply to entrance gate signage or notifications containing solar energy system contacts, or any and all other information that may be required by authorities having jurisdiction for electrical operations. This provision shall not limit the use of signage as otherwise permitted in this Ordinance, except that billboards advertising products or services off-premises shall not be permitted.
13. Roads: Access driveways from public roads shall be subject to the Muskegon County Road Commission review and comment. Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a solar energy system shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate county agency a description of

the routes to be used by construction and delivery vehicles; any road improvement that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all County requirements regarding the use and/or repair of County roads. The Township may require that the applicant post a surety bond with the Township to cover estimated costs related to anticipated road damage or repair as recommended by the County Road Commission.

14. In addition to the general requirements of a special land use application, a solar energy system special use application shall include:
 - a. A detailed site plan which clearly and accurately depicts the property boundary surveys, setbacks, installation, and location of all devices and supporting building structures.
 - b. A USGS based topographic depiction of all adjacent and neighboring property parcels showing the location and type of all buildings within 300 feet of the proposed solar energy system. This depiction shall include the locations and elevations of all proposed solar energy system components.
 - c. Construction Waste Management Plan: The applicant shall submit a Construction Waste Management Plan describing the methods of waste disposal of the large quantities of cardboard, wood, scrap metal, and scrap wire. The Township may require an interim Waste Management bond or other security to insure that the site(s) are clean after initial construction.
 - d. Maintenance Plan: The applicant shall provide a written description of the maintenance program to be used for the solar energy system. The description shall include typical maintenance schedules, the types of maintenance to be performed, and the removal procedures and schedules should solar energy system components become obsolete or abandoned.
 - e. Decommissioning Plan: The applicant shall provide a Decommissioning Plan with the application which will describe the proposed process for decommissioning the site and restoring the property to its previous condition prior to the installation of the solar energy systems and structures. It shall state the estimated usable life of the solar energy system and conditions for decommissioning; the estimated costs in current dollars; and, the process and timeframe to remove all components and structures from the site. The Decommissioning Plan shall be recorded with the Muskegon County Register of Deeds on all properties developed for a solar energy system.
 - f. The application shall be accompanied with the applicable fees and escrow/bond as established by the Township Board.
15. Inspection: The Township shall have the right upon approving any solar energy system special land use to inspect the premises on which the solar energy system is

located at all reasonable times. The Township may hire a consultant to assist with any inspections at the applicant/system owner/operator or property owners' expense.

16. Escrows and Security Bond:

- a. Prior to the start of construction or installation for a solar energy system, the Township shall require the applicant/system owner/operator or property owner to post with the Township a Decommissioning Security in the form of a letter of credit, surety bond, or similar monetary guaranty for an amount necessary to accomplish the work specified in the Decommissioning Plan, as agreed upon by the Township and the applicant/ system owner/operator or property owner. The amount shall be reasonably sufficient to restore the property to its previous condition prior to the initial construction and operation of the solar energy system. The amount necessary to cover the cost of decommissioning and reclamation shall be presumed to be the greater of (i) the net salvage value calculated at 125% of the cost to decommission the project less the salvage value or (ii) an amount equal to \$20/kw AC at the time of construction; \$40/kw AC at the end of year ten; \$80/kw AC at the end of year 20. The net salvage value calculation shall be performed by a third-party professional engineer every 5 years during operations and 12 months prior to the expiration of the project's power purchase agreements with the applicant or landowner. An escalation factor for inflation may be included for determining the amount of the estimated cost of decommissioning.
- b. Such financial security shall be kept in full force and effect during the entire time that the solar energy system exists or is in place, and such financial security shall be irrevocable and non-cancelable by the applicant/system owner/operator or property owner. The Township shall be named as a beneficiary on such financial security documents. Where the applicant takes out the security, it may be assigned to the property owner or system owner/operator with notice to the Township.
- c. On, or prior to, the end of a period of 5 years of the operation of a solar energy system, the estimated costs of decommissioning less the amounts reserved, if any, will be reassessed by the Township and an amount equal to the balance of such updated estimated cost of decommissioning, if any, will be reserved for decommissioning and site restoration.
- d. Failure to keep any required financial security in full force and effect at all times while the solar energy system exists, or is in place, shall constitute a material and significant violation of the special land use approval and this Ordinance, and subject the applicant/system owner/operator or property owner to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the special land use approval.
- e. The financial security will be released to the applicant/system owner/operator or property owner when the Township has determined that it is no longer required.

17. Maintenance and Repair:

- a. The solar energy system must be maintained in good repair and condition, in accordance with industry standards, at all times. The applicant/system owner/operator or property owner has the responsibility to perform the maintenance and repairs in accordance with the Maintenance Plan and the prescribed schedules in a timely manner. All sites with a solar energy system shall be kept free of refuse, waste, or hazardous or unsanitary conditions.
- b. If the Zoning Administrator/Compliance Officer determines that a solar energy system fails to meet the requirements of this Ordinance and the special land use approval, or that it poses a safety hazard or condition, the Zoning Administrator/Compliance Officer shall provide notice to the applicant/system owner/operator or property owner of the safety or condition. If the maintenance, repair, or safety hazard(s) are not corrected after a reasonable period (not to exceed 30 days), which may be reduced depending upon the immediacy of the problem or extended as documented by active corrections as determined by the Zoning Administrator/Compliance Officer in consultation with the Township Supervisor, the Township may take such actions as it deems appropriate including making the repairs (and charging the costs back to the applicant or land owner) or where public safety or emergency conditions warrant, shutting down the solar energy system or portions until the correction is made.
- c. The Township may assess all costs to the applicant/system owner/operator or property owner for such enforcement actions and use a portion of any security bond or escrow being held.

18. Abandonment or Decommissioning:

- a. Prior to decommissioning a solar energy system, the applicant or property owner shall submit an updated Decommissioning Plan to the Zoning Administrator/Compliance Officer for review and approval. Under this plan all structures, concrete, piping, facilities and other project related materials above grade and any structures up to three (3) feet below grade shall be removed offsite and properly disposed. Access drives and roadbeds shall be removed at the option of the property owner. It will be up to the Township Board or Township Supervisor whether to allow certain aspects of a former commercial solar energy system to remain such as roadways or building structures.
- b. The decommissioning shall be complete, and the ground restored within one year from the date of abandonment, which time may be extended by the Zoning Administrator/Compliance Officer for up to one additional year.
- c. Failure by the applicant or property owner to complete removal and reclamation within the one-year time period (or after a time extension as described above) may result in the Township hiring a contractor to complete decommissioning and

reclamation, with all of the expenses thereof charged to the applicant and the property owner and becoming a lien against the property. That shall be in addition to all of the other remedies available to the Township at law and in equity.

19. Any solar energy system that is not operated for a continuous period of twelve (12) consecutive months shall be considered abandoned and the special land use approval revoked.

Article 4. The Remainder of the White River Township Zoning Ordinance is Unaffected. Except as expressly amended by this Ordinance/ordinance amendment, the rest of White River Township Zoning Ordinance remains unchanged and in full force and effect.

Article 5. Severability. Should a court of competent jurisdiction determine that any portion of this Ordinance/ordinance amendment (or any portion thereof) is invalid or unconstitutional, that shall not affect the balance of this Ordinance/ordinance amendment, which shall remain in full force and effect.

Article 6. Effective Date. This Ordinance/ordinance amendment shall become effective upon the expiration of seven (7) days after this Ordinance/ordinance amendment or a summary thereof appears in the newspaper as provided by law.

The vote to adopt this Ordinance/ordinance amendment was as follows:

YEAS: Deb Harris, Laura Anderson, Patti Sargent

NAYS: None

ABSENT/ABSTAIN: Mike Cockerill, Abstain, Bob Suits, Absent

THE ORDINANCE/ORDINANCE AMENDMENT IS DECLARED TO BE DULY ADOPTED.

CERTIFICATION

I hereby certify the above is a true copy of the Ordinance/ordinance amendment adopted by the Township Board for White River Township as of the date, time and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By

Patti Sargent

White River Township Clerk

Exhibit B

**WHITE RIVER TOWNSHIP
MUSKEGON COUNTY, MICHIGAN
(ORDINANCE NO. 58-2023)**

At a special meeting of the Township Board for White River Township held at the Montague High School Auditorium, 4900 Stanton Blvd., Montague, MI on Wednesday, April 26, 2023, at 6:00 p.m., the following Ordinance/ordinance amendment was offered for adoption by Township Board Member Deb Harris and was seconded by Township Board Member Dufresne:

**AN AMENDMENT TO THE WHITE RIVER TOWNSHIP
ZONING ORDINANCE REGARDING SOLAR PANELS,
SOLAR ENERGY SYSTEMS, AND RELATED USES AND
MATTERS.**

THE TOWNSHIP OF WHITE RIVER (the "Township") ORDAINS:

Article 1. The following new definitions are hereby added to Chapter 2 of the White River Township Zoning Ordinance where they fall alphabetically (and the prior definition of "Solar Energy System" is replaced with the new definition as follows):

SOLAR ENERGY SYSTEMS (SES): Solar energy collectors, panels, parts, controls, poles, posts, energy storage devices, heat pumps, heat exchangers, and/or other materials, items, hardware, and/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 energy 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.

* * *

BUILDING-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system attached to the roof or wall of a building, or which services as the roof, wall, or window or other element, in whole or in part, of a building.

* * *

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located.

* * *

MAXIMUM TILT: The maximum angle of a solar array (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.

* * *

NON-PARTICIPATING LOT(S): One or more lots for which there is not a signed agreement, lease or easement for development or use of a utility-scale solar energy system.

* * *

PARTICIPATING LOT(S): One or more lots under a signed agreement, lease or easement for development or use of a utility-scale solar energy system.

* * *

PRIME AGRICULTURAL SOILS OR AREAS: Shall mean one, some or all of the following:

1. Any land or property in a contract or program pursuant to Michigan Public Act No. 116 of 1974, as amended, being MCL 324.36101 *et seq.* (commonly called “PA 116”).
2. Any land or property in or subject to a conservation easement, farmland preservation agreement or the equivalent.
3. Any land or property shown as “prime farmland” on a current or future White River Township Master Plan Map (entitled Prime Farmland).
4. Any land or property identified as prime farmland by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture (USDA).

* * *

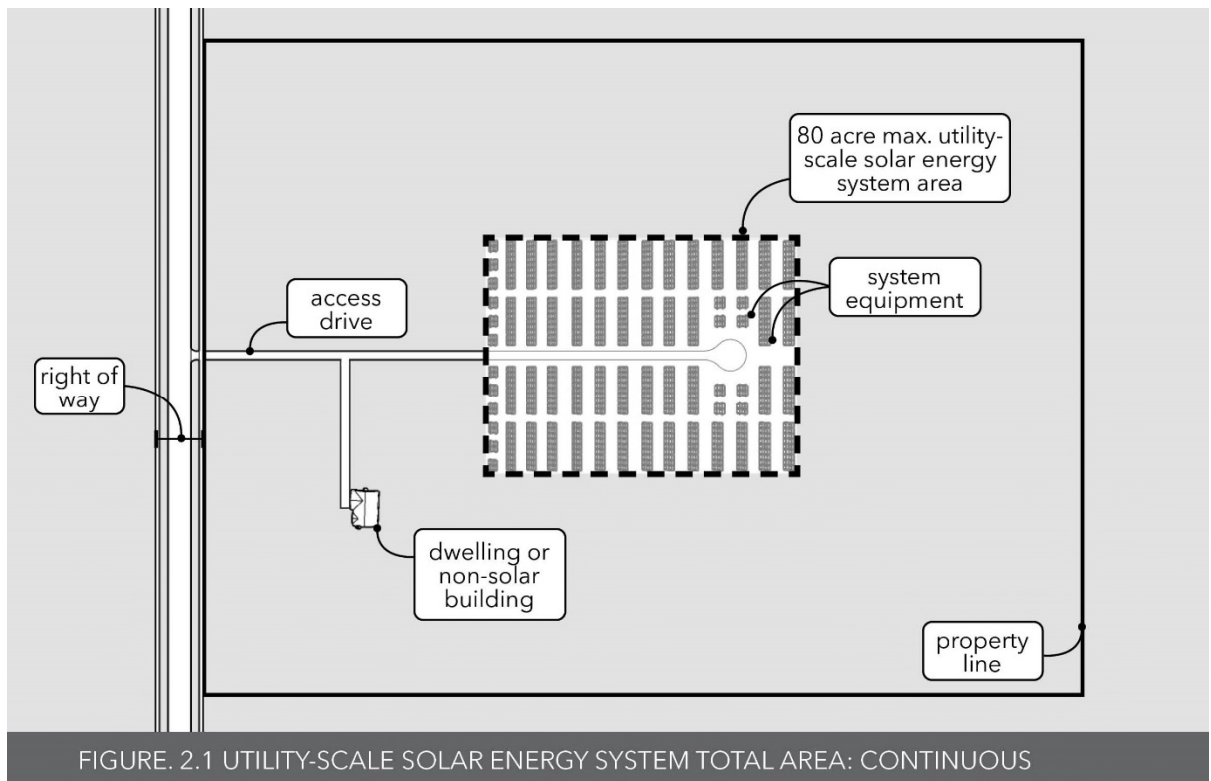
SMALL-SCALE SOLAR ENERGY SYSTEM: A solar energy system primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic systems, flush-mounted solar panels, ground-mounted solar energy systems, or building-mounted solar energy systems. It shall not exceed two-thousand (2,000) square feet in size.

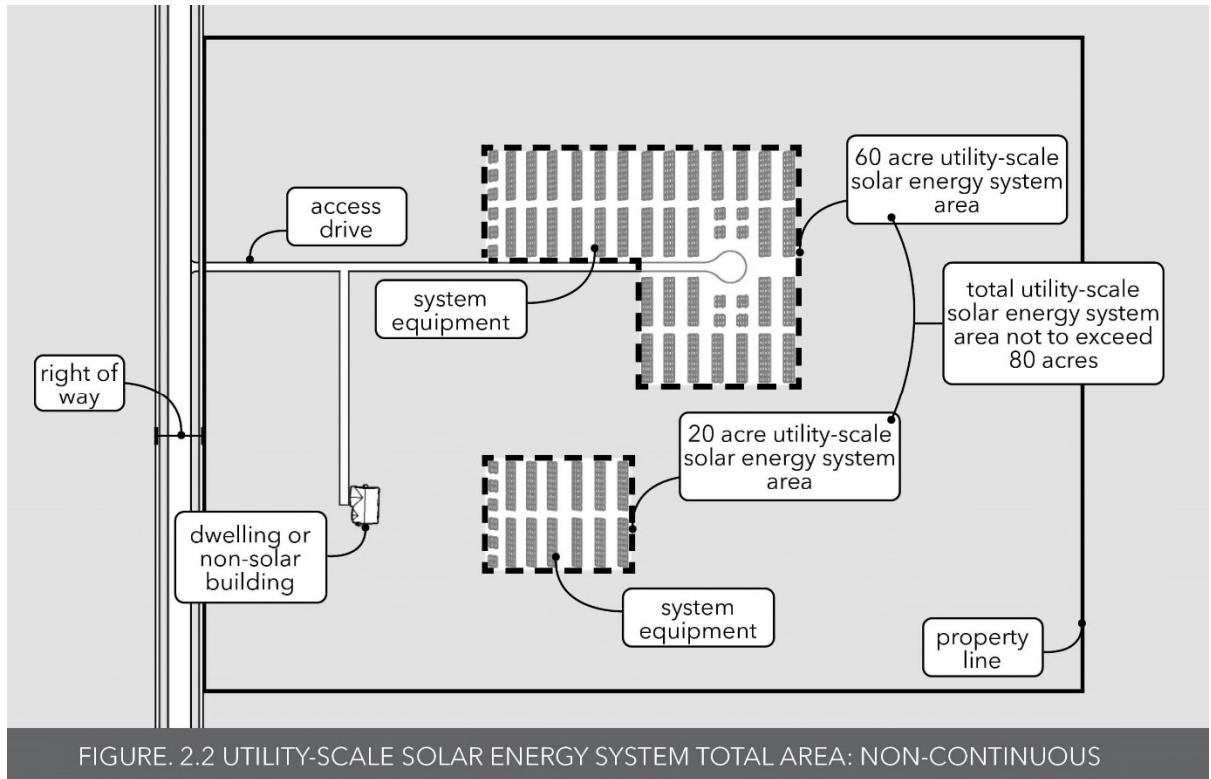
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SOLAR ENERGY COLLECTOR SURFACE: Any part of a solar energy system that absorbs solar energy for use in the system’s transformation process. The collector surface does not include frames, supports, and mounting hardware.

* * *

TOTAL AREA (AS WELL AS LOT COVERAGE, LAND AREA, COVER, OCCUPY AND/OR SIZE): When used in association with or pertaining to a solar energy system shall mean the total area of all components and parts of the solar energy system and facilities (including the solar panels as if they were laying flat on the ground) on a lot or parcel within the outer periphery of those facilities as viewed from above or a bird's-eye view. Such area shall include the area contained within the shortest line surrounding all of the solar facilities on a lot as viewed from above or a bird's-eye view and as if all of the solar panels were laying flat on the ground. Vacant or unused land between and/or among solar panels, solar fixtures and solar facilities shall also be considered part of the coverage or total area. Please also see the following figures:





* * *

UTILITY-SCALE SOLAR ENERGY SYSTEM: A solar energy system that meets one or more of the following:

1. It is primarily used for generating electricity for sale and distribution off site to an authorized public utility, other utility or firm for use in the electrical grid;
2. The total surface area of all solar collector surfaces exceeds two-thousand (2,000) square feet; and/or
3. It is a principal use or principal structure on a parcel.

* * *

Article 2. Existing Section 3.45 of the White River Township Zoning Ordinance is replaced in its entirety with the following language:

SECTION 3.45 SMALL-SCALE SOLAR ENERGY SYSTEMS.

- A. Applicability. This section applies to small-scale solar energy collector systems as defined by this Ordinance. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surfaces less than five (5) square feet and less than five (5) feet above the ground, nor shall it apply to a solar

energy system used to power a single device or specific piece of equipment such as a lawn ornament, light, weather station, thermometer, clock, well pump, or other similar device. Further, this section does not apply to utility-scale solar energy systems, which are regulated in Section 16.06MM of this Ordinance. Regardless of whether a particular provision of this Section 3.45 refers to the applicant, the lessee of land or the landowner, the property owner or landowner is ultimately responsible for compliance with this Ordinance.

B. General Requirements. The following shall apply to all small-scale solar energy systems (except where a stricter requirement is specified elsewhere by this Ordinance):

1. **Permit Required.** No small-scale solar energy system shall be installed or operated except in compliance with this section. A zoning compliance permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system. All small-scale solar energy systems shall be constructed, installed, used, operated, and maintained in strict accordance with the Michigan Building Code, the Electric Code, and the manufacturer's specifications.
2. **Applications.** In addition to all other required application contents as required by this Ordinance, applications for a small-scale solar energy system shall also include equipment and unit renderings, elevation drawings, and a sketch drawing depicting all lot line setbacks and the location of devices.
3. **Setbacks.** Every component and part of a small-scale solar energy system shall be set back a minimum of fifteen (15) feet from the side and twenty-five (25) feet from the rear property boundaries, as well as fifty (50) feet from the front property line.
4. **Location.** No component or any part of a small-scale solar energy system shall be in the front yard of a residential zoning district. In addition, in the WR – Waterfront Residential and CDO – Critical Dune Overlay zoning districts, no solar energy system component or part shall be located on the waterfront side of the property, including wall surfaces facing the water.
5. **Noise:** No solar energy system generating component shall emit noise exceeding forty-five (45) dBA, as measured at the parcel's property boundary or at the public or private road right of-way or easement.
6. **Glare:** All solar energy system location/tilt components shall be designed, maintained and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway. Solar energy system designs shall comply with all Federal Aviation Administration siting requirements.

7. Power lines. On-site power lines between solar panels, buildings, and inverters shall be placed underground.
8. Security. Security for components of a solar energy system is the responsibility of the property owner.
9. Following the operational life of the small-scale solar energy system, or the abandonment or cessation thereof (whichever occurs first), the property owner shall promptly perform decommissioning and removal of the small-scale solar energy system and all components and parts. At all times, while any of the small-scale solar energy system components or parts are present on the property, broken solar panels shall be promptly repaired or removed from the site. There shall be no on-site storage of broken or malfunctioning solar panels.

C. Building-Mounted Solar Energy Systems. Building-mounted solar energy systems may be established as an accessory use in all zoning districts subject to the following conditions.

1. Maximum Height: Building-mounted solar energy systems shall be attached directly to the building and shall not be higher than the peak of the building to which they are attached.
2. Obstruction and Placement: Building-mounted solar energy systems shall not obstruct solar access to adjacent properties and shall not project beyond the eaves of the roof.
3. The installation of a building-mounted solar energy system on a nonconforming building, structure, lot, or use shall not be considered an expansion of the nonconformity.

D. Ground-Mounted Solar Energy Systems. Ground-mounted solar energy systems may be established as an accessory use subject to the following conditions:

1. Ground-mounted solar energy systems are allowed as follows:
 - a. Ground-mounted solar energy systems are allowed in any zoning district so long as they do not exceed one-thousand (1,000) square feet in area in total on any lot or parcel.
 - b. Ground-mounted solar energy systems between one-thousand (1,000) square feet in total area per lot or parcel and two-thousand (2,000) square feet in total area per parcel or lot are allowed in any zoning district with special land use approval, subject to Section 16.06MM of this Ordinance.
 - c. Ground-mounted solar energy systems that equal or exceed two-thousand (2,000) square feet in total area on a given lot or parcel are only allowed within the C - Commercial, LI, Light Industrial and A - Agricultural zoning

districts and must be approved as a special land use, subject to Section 16.06MM of this Ordinance.

[For determining the total area of a solar energy system, see the definition of Total Area (and others in Chapter 2) of this Ordinance.]

2. **Lot Coverage:** The total amount of lot coverage of solar energy systems is limited to 20% of the total area of the parcel involved when the parcel is in the R – Residential, WR — Waterfront Residential or CDO — Critical Dune Overlay zoning districts. For determining lot coverage, see the definition of Total Area (and others in Chapter 2) of this Ordinance.
3. **Height:** The maximum height of a ground-mounted solar energy system device shall not exceed twelve (12) feet above natural grade below the unit to the highest point at maximum tilt.

E. The regulations and requirements for a utility-scale solar energy system are contained in Section 16.06MM of this Ordinance.

Article 3. A new and additional Subsection 16.06MM is hereby added to the White River Township Zoning Ordinance that reads as follows:

MM. Utility-Scale Solar Energy Systems.

1. Purpose. White River Township finds that the production of energy through the installation of solar energy systems is a matter closely connected with the public health, safety, and welfare of the community. The purpose of this Section is to strike an appropriate balance between the interests of community residents, real property owners, and businesses interested in harnessing the energy of the sun through the installation and use of utility-scale solar energy systems. While the creation of domestic local energy sources brings benefits to the state, region, and community, the installation and use of utility-scale solar energy systems simultaneously creates concerns surrounding farmland preservation, community aesthetics, environmental impacts, wildlife impacts, property value impacts, noise, glare, public health, and other similar issues. Further, the dominance of one particular land use brings aesthetic and economic concerns and the impact on the viability of historic land uses such as farming in the community.
2. Special Land Use. Special Land Use approval is required for all utility-scale solar energy systems and also for certain other solar energy systems as specified in Subsection 3.45 D hereof. The applicant shall also comply with all applicable federal, State of Michigan and county requirements, (including any requirements by the Muskegon County Water Resources Commissioner) in addition to other applicable Township ordinances and codes. All plans, drawings, or other material submitted for a utility-scale solar energy system

special land use approval shall be produced by licensed professionals appropriate for the materials. In addition to the Special Land Use standards found in Section 16.03A of this Ordinance, the Planning Commission shall also consider the following:

- a. The Special Land Use shall not significantly adversely impact the property values of buildings, structures and lands located within one mile of the solar facilities. A presumption arises that this standard will not be met if substantial evidence indicates that the proposed solar energy system or facilities will decrease the value of any parcels or lots (or the buildings, uses, land value or structures thereon) by 15% of fair market value or greater.
 - b. The Special Land Use will not visually, aesthetically, economically or otherwise dominate other area land uses, structures or activities.
 - c. The Special Land Use shall be harmonious and consistent with the intent of the Township Zoning Ordinance.
 - d. The Special Land Use will not establish a precedent for developments or uses which could adversely affect the long-term goals of the Township Zoning Ordinance and Master Plan.
 - e. The Special Land Use shall be designed to preserve environmental features, such as lakes, streams, flood plains, agricultural areas and natural areas.
 - f. The Special Land Use shall be reasonable.
3. The applicant shall comply with State of Michigan Construction Code (as adopted by the county) and the National Electric Code (NEC). In the event of a conflict between the State Building Code and National Electrical Code, the NEC shall prevail.
 4. All components of a utility-scale solar energy system shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (EIL), or a similar certification organization.
 5. Setbacks: Setback distances shall be measured as follows:
 - a. Every component and part of a utility-scale solar energy system, including required fencing, shall not be located within six-hundred (600) feet of any lot line or public or private road right-of-way or easement.
 - b. If there is a residential use or dwelling on the parcel where a utility-scale solar energy system is located, any solar energy component or part, including required fencing, shall not be located within one-hundred (100) feet of the dwelling on that parcel.

- c. Any component or part of a utility-scale solar energy system, including required fencing, shall not be located within one-hundred (100) feet of a stream, river, pond, lake, wetland, drain, or lands located within a 100-year floodplain as identified by the Federal Emergency Management Agency (FEMA).
 - d. A utility-scale solar energy system is not subject to property line setbacks for common property lines of two or more participating lots, except that front property lines, water, and road right-of-way setbacks shall still apply.
6. Township Land Coverage: Utility-scale solar energy systems shall not occupy or cover more than five (5) percent of the total land area of White River Township. For determining land coverage, see the definition of Lot Coverage in Chapter 2 of this Ordinance.
7. Maximum Size: Utility-scale solar energy systems shall not exceed eighty (80) acres in size per parcel or lot. For determining such maximum size, see the definition of Size in Chapter 2 of this Ordinance. In addition, where two (2) or more utility-scale solar energy systems (or the lots or parcels involved) are located within one (1) mile of one another and are owned or operated by the same person or firm (or a related or affiliate firm), such systems shall be deemed to be one overall utility-scale solar energy system for purposes of this Subsection 7 and the total size shall be attributable to each such lot or parcel. By way of explanation (but not of limitation), Parcel A has an existing utility-scale solar energy system that is 40 acres in size. Parcel B is located within one-half mile of Parcel A and the same property owner, firm or affiliate of the firm that owns or operates the utility-scale solar energy system on Parcel A is proposing a new 30 acre utility-scale solar energy system on Parcel B. The total of the land area for the existing and proposed utility-scale solar energy system would not exceed 80 acres, such that the maximum size limit would not be exceeded. Alternately, Parcel 1 has an existing utility-scale solar energy system that is 60 acres in size. Parcel 2 is located three-quarters of a mile from Parcel 1. The owner, firm or affiliated firm that owns or operates the utility-scale solar energy system on Parcel 1 is proposing a new 30 acre utility-scale solar energy system on Parcel 2. Accordingly, both Parcel 1 and Parcel 2 are deemed to have a utility-scale solar energy system with the size of 90 acres, such that the new utility-scale solar energy system cannot be built, installed or utilized on Parcel 2.
8. Screening, Landscaping, and Visual Impact: Where a utility-scale solar energy system is located on a property that abuts a public or private road right-of-way or easement or property containing a non-participating residential use and such right-of-way or easement or residential use is not sufficiently screened by existing vegetation, the perimeter within 100 feet of the utility-scale solar energy facility and required fencing shall be screened and buffered by

landscaped earthen berm, installed native evergreen hedge or densely leaved deciduous trees and shrubs, or combination thereof. Any perimeter fencing installed shall be located inside any berm or vegetative screening (see Subsection 16.06MM.10 for Security and Fencing requirements).

- a. Berms shall be a minimum of five (5) feet in height from the surrounding grade and shall be sloped to no more than a ratio of one (1) foot vertical to four (4) feet horizontal.
 - b. Evergreen trees shall be a minimum of four (4) feet in height when planted, deciduous trees shall be at least a 2-inch caliper when planted, and shrubs shall be at least two (2) feet in height at the time of planting.
 - c. Evergreen trees shall be spaced no more than fifteen (15) apart on center, deciduous trees shall be placed no more than thirty (30) feet apart on center, and shrubs shall be placed no more than seven (7) feet apart on center. The Planning Commission may modify required planting separations if it is determined that the combination of proposed landscaping, berming, and screening will not be sufficient to screen the project.
 - d. The type, location, and configuration of such screen shall be approved by the Planning Commission and shall be maintained for the life of the project and dead or dying vegetation shall be replaced within one (1) year, as necessary, to maintain the visual screen.
 - e. Plantings or berms shall be sufficient to visually screen the project. The applicant shall demonstrate the visual impact and screening opacity using photos or renderings of the project or similar projects.
9. Ground Cover: Native pollenating plants shall be planted (and maintained) between solar panel rows as ground cover for bees, butterflies, birds, and other wildlife. A horticulturist or landscape architect shall be consulted and make recommendations for all plantings.
10. Security and Fencing: Security for a utility-scale solar energy system requires a completely enclosed perimeter security fence to restrict unauthorized access. All fencing (including type, color, size, and location) shall be approved by the Planning Commission. Fencing shall not exceed eight (8) feet in height, unless approved by the Planning Commission. Use of barbed-wire on fencing is prohibited. Electric fencing is not permitted. Fencing more than eight (8) feet in height may be required to be set back further from the public or private road right-of-way or easement. Any substation or support structures and related electrical transmission equipment buildings shall be further secured with additional fencing and security measures, locks, and restricted access. Any public roadways or access points to the parcel shall have additional fencing and/or restricted access measures. The Planning Commission may require

wildlife-friendly fencing with openings that allow wildlife to traverse over or through a fenced area.

11. Agricultural Protection:

- a. Utility-scale solar energy systems shall generally not be located on or within prime agricultural soils or areas.
- b. For sites where agriculture uses or farms are a permitted use in the zoning district where the lot or parcel is located, a utility-scale solar energy system shall be sited so as to minimize impacts to agricultural production through site design and accommodations. The applicant shall follow the following protective methods, and provide reasonable evidence to the Planning Commission that the site will be reasonably capable of maintaining agricultural operations and/or a return to agricultural production upon decommissioning of the utility-scale solar energy system:
 - (1) The ground mounting of panels by screw, piling, or similar system that does not require a footing, concrete, or other permanent mounting in order to minimize soil compaction;
 - (2) Siting panels to avoid disturbance and compaction of farmland by siting panels along field edges and in nonproductive areas to the maximum extent practicable and financially feasible;
 - (3) Maintaining all drainage infrastructure on site, including drain tiles and ditches, during the operation of the utility-scale solar energy system;
 - (4) Siting the utility-scale solar energy system to avoid isolating farm operations such that they are no longer viable or efficient for agricultural production, including, but not limited to, restricting the movement of agricultural vehicles/equipment for planting, cultivation, and harvesting of crops, and creating negative impacts on support infrastructure such as irrigation systems or drains; and
 - (5) Maintaining existing grading and topography on the site as much as practicable, including all soils except where needed to install footings or other infrastructure.
 - (6) Prime agricultural soils and areas shall be avoided and not have utility-scale solar energy systems or components thereon unless no other land is reasonably available and the facilities will not adversely affect other area uses.

12. Wildlife and Environmental Protection: The applicant shall provide information to ensure that impacts on wildlife, surface waters, groundwater, and other

environmental concerns are addressed and minimized. Such concerns include, but are not necessarily limited to, impacts to protected and endangered species, impacts of perimeter fencing on deer and animal movement, impacts to protected wetlands, impacts on soils, and stormwater runoff. The Planning Commission may require the applicant to submit reports from the United States Fish and Wildlife Service and other environmental reports in this regard. Further, equipment and materials used in the utility-scale solar energy facility shall be widely considered safe and non-hazardous by relevant industry standards, applicable guidelines, and/or a regulatory authority having jurisdiction.

13. Land Clearing: Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
14. Distribution, Transmission, and Interconnection: All collection lines and interconnections within the utility-scale solar energy system shall be located and maintained underground, unless above ground installation is approved by the Planning Commission. This requirement excludes transmission lines and equipment meant to connect the project inverter(s) to the project substation and public utility substation off site from the utility-scale solar energy system on the property, all of which may be above ground.
15. Height: The maximum height of a utility-scale solar energy system component, part or device (such as solar energy collectors and solar energy collector surfaces) shall not exceed twelve (12) feet as measured from the natural grade at the base of the utility-scale solar energy system component, part or device, to the tip when extended at maximum tilt or otherwise. Other utility-scale solar energy system components and buildings (such as any substation and related electrical transmission equipment) cannot exceed the maximum allowed height of 35 feet as measured from the natural grade at the base of the utility-scale solar energy system component or building to the tip or ridge of the component or building. The minimum height of any solar energy collector surface as defined herein shall be a minimum of three (3) feet above the natural grade.
16. Glare: All utility-scale solar energy system location/tilt components and parts shall be designed and operated to avoid glare and reflection of sunlight and other artificial lighting which may affect navigation by air, water, and roadway. Utility-scale solar energy system designs shall comply with all Federal Aviation Administration siting requirements.
17. Noise: No utility-scale solar energy system generating component or device shall emit any noise exceeding forty-five (45) dBA, as measured at the exterior parcel boundary or existing road right-of-way or easement line. The site plan

shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.

18. Lighting: Exterior lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties, focused toward the ground in a downward fashion, and shall be so arranged so as to not adversely affect driver visibility on adjacent public roads.
19. Advertising: No advertising or non-project graphics shall be permitted on any part of the utility-scale solar energy system or other components or parts. This exclusion does not apply to entrance gate signage or notifications containing solar energy system contacts, or any and all other information that may be required by authorities having jurisdiction for electrical operations. This provision shall not limit the use of signage as otherwise permitted in this Ordinance, except that billboards advertising products or services off-premises shall not be permitted on the parcel or lot with the solar energy system.
20. Roads: Access driveways from public roads shall be subject to the Muskegon County Road Commission review and approval. Any material damages to a public road located within the Township resulting from the construction, maintenance, use or operation of a utility-scale solar energy system shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate county agency a description of the routes to be used by construction and delivery vehicles and any road improvement that will be necessary to accommodate construction vehicles, equipment, or other deliveries. The applicant shall abide by all County requirements regarding the use and/or repair of County roads. The Township may require that the applicant post a surety bond with the Township to cover estimated costs related to anticipated road damage or repair as recommended by the County Road Commission.
21. Additional Submittal Materials: In addition to the general requirements of a special land use and site plan application, a utility-scale solar energy system special use application shall include:
 - a. A detailed site plan which clearly and accurately depicts the property boundary surveys, setbacks, installation and location of all devices and supporting building structures, fencing, modeled sound isolines, drains, wetlands, bodies of water, and landscaping.
 - b. A USGS based topographic depiction of all adjacent and neighboring property parcels showing the location and type of all buildings within one-thousand (1,000) feet of the lot or parcel on which the proposed utility-scale solar energy system will be located. This depiction shall include the locations and elevations of all proposed utility-scale solar energy system components and parts.

- c. A list that contains the location and a brief description of all other existing and planned utility-scale solar energy systems within three (3) miles of the lot or parcel on which the proposed utility-scale solar energy system will be located.
 - d. Construction Waste Management Plan: The applicant shall submit a Construction Waste Management Plan describing the methods of waste disposal of the large quantities of cardboard, wood, scrap metal, and scrap wire. The Township may require an interim Waste Management bond or other security to ensure that the site(s) are clean after initial construction.
 - e. Maintenance Plan: The applicant shall provide a written description of the maintenance program to be used for the utility-scale solar energy system. The description shall include typical maintenance schedules, the types of maintenance to be performed, and the removal procedures and schedules should solar energy system components become broken, obsolete or abandoned. Solar panels shall be maintained in good repair and condition at all times. Broken solar panels shall either be repaired or removed from the site promptly. There shall be no on-site storage or disposal of broken or malfunctioning solar panels or other components or parts.
 - f. Decommissioning Plan: The applicant shall provide a detailed Decommissioning Plan with the application which will describe the proposed process for decommissioning the site and restoring the property to its previous condition prior to the installation of the utility-scale solar energy system and structures. It shall state the estimated usable life of the utility-scale solar energy system and conditions for decommissioning; the estimated costs in current dollars; and, the process and timeframe to remove all components and structures from the site. The Decommissioning Plan shall be recorded with the Muskegon County Register of Deeds on all properties developed for a utility-scale solar energy system.
 - g. The application shall be accompanied with the applicable fees, escrow amount and bond as established by the Township Board.
22. Emergency Personnel: The applicant shall provide informational materials up to and including training for responding local emergency and fire department services, and all fire departments that provide mutual aid, prior to the start of any utility-scale solar energy system operations. On-site emergency access and contacts and equipment protocols shall be provided to local emergency services and fire departments in the event of a fire or other emergency. Local emergency service and fire department training or materials will be held or provided thereafter at the expense of the owner and/or operator, as requested by the emergency services and/or fire department(s) not more than once per calendar year or as reasonably necessary. If specific firefighting chemicals or materials are needed to extinguish utility-scale solar energy system equipment fires, local

emergency services and the fire department shall be provided with the proper training to handle, contain, and clean-up the chemicals or materials by the applicant.

23. Inspection: The Township shall have the right upon approving any utility-scale solar energy system special land use to inspect the premises on which the utility-scale solar energy system is located at all reasonable times. The Township may hire a consultant to assist with any inspections at the applicant/system owner/operator or property owners' expense. If the Township determines that any part of the utility-scale solar energy system fails to comply with the Special Land Use approval, site plan approval, any applicable code, or the Zoning Ordinance, the utility-scale solar energy system shall be repaired or modified promptly. Failure to do so will constitute a material and significant violation of this Ordinance and the Special Land Use and site plan approval. Furthermore, if it is determined that the utility-scale solar energy system has been expanded or modified without the prior approval of the Township, that shall also constitute a material and significant violation of the Special Land Use and site plan approvals and this Ordinance.

24. Escrows and Security Bond:

- a. Prior to the start of construction or installation of a utility-scale solar energy system, the applicant/system owner/operator or property owner shall post with the Township a Decommissioning Security in the form of cash, a letter of credit, surety bond, or similar financial guarantee for an amount necessary to accomplish the work specified in the Decommissioning Plan, as agreed upon by the Township and the applicant/ system owner/operator or property owner. The amount shall be reasonably sufficient to restore the property to its previous condition prior to the initial construction and operation of the utility-scale solar energy system. The amount necessary to cover the cost of decommissioning and reclamation shall be presumed to be the greater of (i) the net salvage value calculated at 125% of the cost to decommission the project less the salvage value or (ii) an amount equal to \$20/kw AC at the time of construction; \$40/kw AC at the end of year ten; \$80/kw AC at the end of year 20. The net salvage value calculation shall be performed by a third-party professional engineer approved by the Township every 5 years during operations and 12 months prior to the expiration of the project's power purchase agreements with the applicant or landowner. An escalation factor for inflation shall be included for determining the amount of the estimated cost of decommissioning. The Planning Commission may require a larger bond if conditions and circumstances reasonably require it.
- b. Such financial security shall be kept in full force and effect during the entire time that the utility-scale solar energy system exists or is in place, and such financial security shall be irrevocable and non-cancelable by the applicant/system owner/operator or property owner. The Township shall be

the beneficiary of such financial security documents. Where the applicant takes out the security, it may be assigned to the property owner or system owner/operator with notice to the Township.

- c. On, or prior to, the end of a period of 5 years of operation of a utility-scale solar energy system, the estimated costs of decommissioning less the amounts reserved, if any, will be reassessed by the Township and an amount equal to the balance of such updated estimated cost of decommissioning, if any, will be reserved for decommissioning and site restoration.
- d. Failure to keep any required financial security in full force and effect at all times while the utility-scale solar energy system exists, or is in place, shall constitute a material and significant violation of the special land use approval and this Ordinance, and shall subject the applicant/system owner/operator or property owner to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the special land use approval.
- e. The financial security will be released to the applicant/system owner/operator or property owner when the Township has determined that it is no longer required.

25. Compliance, Maintenance and Repair:

- a. The utility-scale solar energy system must be maintained in good repair and condition and also in accordance with industry standards, at all times. The applicant/system owner/operator and property owner have the joint responsibility to perform the maintenance and repairs in accordance with the Maintenance Plan and the prescribed schedules in a timely manner. All sites with a utility-scale solar energy system shall be kept free of refuse, waste, or hazardous or unsanitary conditions.
- b. If the Zoning Administrator/Compliance Officer determines that a utility-scale solar energy system fails to meet the requirements of this Ordinance and the special land use or site plan approval, or that it poses a safety hazard or unsafe condition, the Zoning Administrator/ Compliance Officer shall provide notice to the applicant/system owner/operator or property owner of the safety or condition. If the maintenance, repair, or safety hazard(s) are not corrected or remedied after a reasonable period (not to exceed 30 days), which may be reduced depending upon the immediacy of the problem or extended as documented by active corrections as determined by the Zoning Administrator/Compliance Officer in consultation with the Township Supervisor, then the Township may take such actions as it deems appropriate including making the repairs (and charging the costs back to the applicant or land owner) or where public safety or emergency conditions

warrant, shutting down the utility-scale solar energy system or portions thereof until the correction is made.

- c. The Township may assess all costs to the applicant/system owner/operator or property owner for such enforcement actions and use a portion of any security bond or escrow being held.
- d. In addition to repairing or replacing components to maintain the system, a utility-scale solar energy facility may at any time be repowered, without the need to apply for a special land use permit, by reconfiguring, renovating, or replacing the utility-scale solar energy system to increase the power rating within the existing project footprint and with solar energy collector surfaces of identical or smaller size. A proposal to change the footprint of the existing utility-scale solar energy system or replace existing panels with new panels having a larger solar energy collector surface shall be considered a new application, subject to the Ordinance standards at the time of the request.
- e. The applicant, system owner or operator and property owner are all jointly and severally liable and responsible for complying with this Ordinance, the special land use and site plan approval and all laws at all times.

26. Abandonment or Decommissioning:

- a. Prior to decommissioning a utility-scale solar energy system, the applicant or property owner shall submit an updated Decommissioning Plan to the Zoning Administrator/ Compliance Officer for review and approval. Under such plan, all structures, concrete, piping, facilities and other project related materials above grade and any structures up to three (3) feet below grade shall be removed and properly disposed of offsite. Access drives and roadbeds shall be removed at the option of the property owner. It will be up to the Township Board or Township Supervisor whether to allow certain aspects of a former utility-scale solar energy system to remain such as roadways or building structures.
- b. The decommissioning shall be complete, and the ground restored fully to its prior condition, within one (1) year from the date of abandonment or cessation, which time may be extended by the Zoning Administrator/Compliance Officer for up to one (1) additional year.
- c. Failure by the applicant or property owner to complete removal and reclamation within the one (1) year time period (or after a time extension as described above) may result in the Township hiring a contractor to complete decommissioning and reclamation, with all of the expenses thereof being charged to the applicant and the property owner and becoming a lien against the property. That shall be in addition to all the other remedies available to the Township at law and in equity.

27. Any utility-scale solar energy system that is not operated for a continuous period of twelve (12) consecutive months shall be considered abandoned and the special land use and site plan approval revoked.

28. Insurance: Liability insurance in the amount of at least two million dollars (\$2,000,000) shall cover every utility-scale solar energy system at all times, which insurance shall be adjusted every 5 years pursuant to the federal Consumer Price Index (or equivalent index). The Township shall be provided with written proof of such insurance upon a 30-day prior written request by the Township.

Article 4. The Remainder of the White River Township Zoning Ordinance is Unaffected. Except as expressly amended by this Ordinance/ordinance amendment, the rest of White River Township Zoning Ordinance remains unchanged and in full force and effect.

Article 5. Severability. Should a court of competent jurisdiction determine that any portion of this Ordinance/ordinance amendment (or any portion thereof) is invalid or unconstitutional, that shall not affect the balance of this Ordinance/ordinance amendment, which shall remain in full force and effect.

Article 6. Effective Date. This Ordinance/ordinance amendment shall become effective upon the expiration of seven (7) days after this Ordinance/ordinance amendment or a summary thereof appears in the newspaper as provided by law.

The vote to adopt this Ordinance/ordinance amendment was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent

NAYS: None

ABSENT/ABSTAIN: Cockerill

THE ORDINANCE/ORDINANCE AMENDMENT IS DECLARED TO BE DULY ADOPTED.

CERTIFICATION

I hereby certify the above is a true copy of the Ordinance/ordinance amendment adopted by the Township Board for White River Township as of the date, time and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By, 

Patti Sargent, White River Township Clerk

Exhibit C

**WHITE RIVER TOWNSHIP
TOWNSHIP BOARD**

RESOLUTION NO. 73 - 2024

**RESOLUTION TO ADOPT ZONING ORDINANCE AMENDMENTS
REGARDING SOLAR ENERGY SYSTEMS**

At a meeting of the Township Board for White River Township, Muskegon County, Michigan, held on September 10, 2024, at 7:00 p.m. at Nellie B. Chisholm Middle School, 4700 Stanton Boulevard, Montague, MI 49437.

PRESENT: George Dufresne, Laura Anderson, Deb Harris, Patti Sargent, Ronald Bailey Jr.

ABSENT: None

The following preamble and resolution were offered by Harris and seconded by Dufresne.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, White River Township ("Township") has adopted such a zoning ordinance ("Zoning Ordinance"); and

WHEREAS, the Township Board desires to amend the zoning regulations for solar energy systems in the Township to be compatible with Public Act 233 of 2023 in order to retain local control over the zoning regulations for solar energy systems; and

WHEREAS, the Township Planning Commission held a duly noticed public hearing at a meeting on August 12, 2024 to consider amendments to the Zoning Ordinance regarding solar energy systems ("Proposed Amendments"); and

WHEREAS, the Township Planning Commission recommended adoption of the Proposed Amendments, as described in Ordinance No. 61-2024, An Ordinance to Amend the Zoning Ordinance to Regulate Solar Energy Systems in Accordance with PA 233 (the “Ordinance”); and

WHEREAS, the Township Board finds that undeveloped brownfield properties are especially conducive sites for solar energy projects because they provide an opportunity for renewable energy production while making use of otherwise vacant land; and

WHEREAS, the Township Board finds that certain brownfield properties in the Township are located near substations and existing transmission infrastructure necessary for solar energy projects; and

WHEREAS, the Township Board finds that amending the Zoning Ordinance with regard to solar energy regulations so that the Zoning Ordinance complies with PA 233 is necessary to ensure continued local control over the siting of solar energy projects; and

WHEREAS, the Township Board finds that the adopting the Ordinance is in the best interest of the health, safety, and welfare of the Township’s residents and the general public.

NOW, THEREFORE, the Township Board of the Township of White River resolves as follows:

1. Ordinance No. 61-2024, An Ordinance to Amend the Zoning Ordinance to Regulate Solar Energy Systems in Accordance with PA 233, attached as **Exhibit A**, is hereby adopted.
2. The Ordinance shall be filed with the Township Clerk.
3. The Township Clerk is directed to publish a notice of adoption within 15 days after adoption of the Ordinance.
4. A copy of the Ordinance shall be available for examination at the office of the Township Clerk, and copies may be provided for a reasonable charge.

5. Any resolutions that conflict with this Resolution are repealed to the extent necessary to give this Resolution full force and effect.

A vote on the above Resolution was taken and was as follows:
YEAS: Dufresne, Anderson, Harris, Sargent, Bailey
NAYS: None
ABSENT/ABSTAINING: None

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)
COUNTY OF MUSKEGON)

I, the undersigned, the duly qualified and acting Clerk for the Township of White River, Muskegon County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a meeting held pursuant to the Open Meetings Act on September 10, 2024.


Patti Sargent, Township Clerk

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EXHIBIT A

**WHITE RIVER TOWNSHIP
MUSKEGON COUNTY
MICHIGAN**

ORDINANCE NO. 61-2024

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE UTILITY-
SCALE SOLAR ENERGY SYSTEMS IN ACCORDANCE WITH PA 233**

The Township of White River ordains:

Section 1. Addition of New Subsection 29 to Section 16.06(MM).

A new subsection 29 is added to Section 16.06(MM) of the White River Township Zoning Ordinance and reads in its entirety as follows:

29. Utility-Scale Solar 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 Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more. Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more shall only be permitted as a special land use in the Renewable Energy Overlay District.

To the extent the following provisions conflict with the provisions in subsections 1 through 28 above, these provisions control as to Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more. All provisions in subsections 1 through 28 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 Utility-Scale Solar Energy Systems 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 for a land use permit for a Utility-Scale Solar Energy System 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 2. 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 3. 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 4. Effective Date.

This Ordinance/ordinance amendment shall become effective seven (7) days after the adoption of this Ordinance/ordinance amendment (or summary thereof) appears in the newspaper as provided by law.

The vote to adopt this ordinance/ordinance amendment was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent, Bailey

NAYS: None

ABSENT/ABSTAINING: None

THIS ORDINANCE/ ORDINANCE AMENDMENT IS HEREBY DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance/ordinance amendment adopted by the Township Board for White River Township at a meeting of said Board held on September 10, 2024.

Dated: September 10, 2024.


Patti Sargent, White River Township Clerk

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Exhibit D

**WHITE RIVER TOWNSHIP
TOWNSHIP BOARD**

RESOLUTION NO. 72 - 2024

**RESOLUTION TO ADOPT ZONING ORDINANCE AND MAP AMENDMENTS
CREATING RENEWABLE ENERGY OVERLAY DISTRICT**

At a meeting of the Township Board for White River Township, Muskegon County, Michigan, held on September 10, 2024, at 7:00 p.m. at Nellie B. Chisholm Middle School, 4700 Stanton Boulevard, Montague, MI 49437.

PRESENT: Dufresne, Anderson, Harris, Sargent, Bailey

ABSENT: None

The following preamble and resolution were offered by Sargent and seconded by Harris.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, White River Township ("Township") has adopted such a zoning ordinance ("Zoning Ordinance") and zoning map ("Zoning Map"); and

WHEREAS, the Township Board desires to amend the Zoning Ordinance and Zoning Map to create a new overlay district for renewable energy land uses; and

WHEREAS, the Township Planning Commission held a duly noticed public hearing at a meeting on August 12, 2024 to consider amendments to the Zoning Ordinance and Zoning Map regarding a renewable energy overlay district ("Proposed Amendments"); and

WHEREAS, the Township Planning Commission recommended adoption of the Proposed Amendments, as described in Ordinance No. 60-2024, An Ordinance to Amend the Zoning

Ordinance and Zoning Map to Establish the Renewable Energy Overlay District (the “Ordinance”);
and

WHEREAS, the Township Board finds that undeveloped brownfield properties are especially conducive sites for renewable energy land uses because they provide an opportunity for renewable energy production while making use of otherwise vacant land; and

WHEREAS, the Township Board finds that certain brownfield properties in the Township are located near substations and existing transmission infrastructure necessary for renewable energy projects; and

WHEREAS, the Township Board finds that siting renewable energy land uses in an overlay district encompassing brownfield properties is in the best interest of the health, safety, and welfare of the Township’s residents and the general public.

NOW, THEREFORE, the Township Board of the Township of White River resolves as follows:

1. Ordinance No. 60-2024, An Ordinance to Amend the Zoning Ordinance and Zoning Map to Establish the Renewable Energy Overlay District, attached as **Exhibit A**, is hereby adopted.
2. The Ordinance shall be filed with the Township Clerk.
3. The Township Clerk is directed to publish a notice of adoption within 15 days after adoption of the Ordinance.
4. A copy of the Ordinance shall be available for examination at the office of the Township Clerk, and copies may be provided for a reasonable charge.
5. Any resolutions that conflict with this Resolution are repealed to the extent necessary to give this Resolution full force and effect.

A vote on the above Resolution was taken and was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent, Bailey

NAYS: None

ABSENT: None

ABSTAINING: None

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)
COUNTY OF MUSKEGON)

I, the undersigned, the duly qualified and acting Clerk for the Township of White River, Muskegon County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a meeting held pursuant to the Open Meetings Act on September 10, 2024.


Patti Sargent, Township Clerk

EXHIBIT A

**WHITE RIVER TOWNSHIP
MUSKEGON COUNTY
MICHIGAN**

ORDINANCE NO. 60-2024

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND ZONING MAP
TO ESTABLISH THE RENEWABLE ENERGY OVERLAY DISTRICT**

The Township of White River ordains:

Section 1. New Chapter 14A, “REO Renewable Energy Overlay District.”

A new Chapter 14A, entitled “REO Renewable Energy Overlay District,” is added to the White River Township Zoning Ordinance after Chapter 14 and reads in its entirety as follows:

CHAPTER 14A REO RENEWABLE ENERGY OVERLAY DISTRICT

SECTION 14A.01 PURPOSE

It is the purpose of this District to promote the public health, safety, and general welfare by providing areas in the Township for renewable energy land uses while also protecting the Township’s open space, natural habitats, and farmland.

SECTION 14A.02 PERMITTED USES

All uses specifically permitted in the underlying zoning district are permitted in the REO District. Uses not specifically permitted in the underlying zoning district are prohibited.

SECTION 14A.03 SPECIAL LAND USES

All uses specifically allowed as a special land use in the underlying zoning district are allowed as special land uses in the REO district, subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

Land and/or buildings in the REO District may also be used for the following special land uses, subject to approval by the Planning Commission as a Special Land Use in accordance with the procedures of Chapter 16.

- A. Wind energy conversion systems, subject to Section 16.06(LL).
- B. Utility-scale solar energy systems, subject to Section 16.06(MM).
- C. Utility-scale battery energy storage systems, subject to Section 16.06(NN).

SECTION 14A.04 DELINEATION OF REO DISTRICT

The REO District covers the following area:

Parcel No. 61-01-136-100-0001-00

Section 2. Amendment to Section 4.02.

Section 4.02 of the White River Township Zoning Ordinance is amended by the addition of the following row to the table in Section 4.02:

REO	Renewable Energy Overlay	Chapter 14A
-----	--------------------------	-------------

Section 3. Amendment of Zoning Map.

The White River Township Zoning Map is amended by the addition of a Renewable Energy Overlay District (“REO”) as depicted in **Exhibit A**.

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.

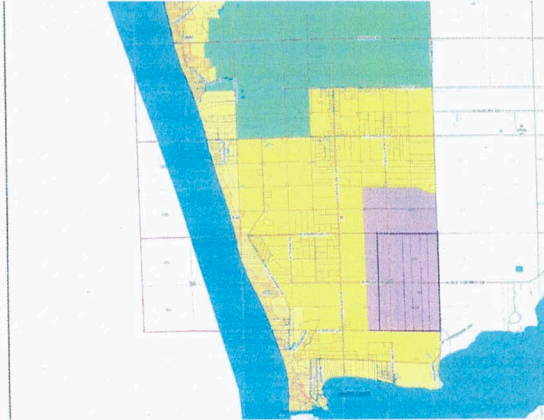
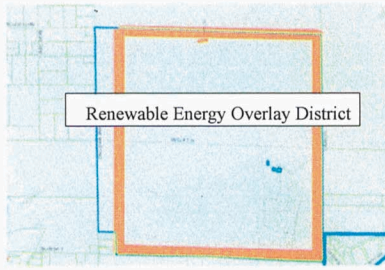
Section 5. Repealer.

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/ordinance amendment shall become effective seven (7) days after the adoption of this Ordinance/ordinance amendment (or summary thereof) appears in the newspaper as provided by law.

Exhibit A to Ordinance No. 60-2024



The vote to adopt this ordinance/ordinance amendment was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent, Bailey

NAYS: None

ABSTAIN/ABSENT: None

THIS ORDINANCE/ ORDINANCE AMENDMENT IS HEREBY DECLARED ADOPTED_

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance/ordinance amendment adopted by the Township Board for White River Township at a meeting of said Board held on September 10, 2024.

Dated: September 10, 2024


Patti Sargent, White River Township Clerk

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