

NOTTAWA TOWNSHIP
ORDINANCE NO. 54
Adopted March 18, 2024
Effective _____

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO REGULATE SOLAR ENERGY SYSTEMS**

Introduction: This ordinance seeks to regulate solar energy systems within Nottawa Township. This ordinance has been drafted in accord with the Nottawa Township Master Plan, which provides guidelines for future development within the community while protecting the natural resources and the agricultural and rural characteristics of the Township.

The Township of Nottawa, St. Joseph County, Michigan ordains:

Section 1.

**Amendment to Article Two, “Construction of Language and Definitions” of the Nottawa Township
Zoning Ordinance, as amended.**

The following definitions are added to Article 2 “Construction of Language and Definitions” Section 300.202 “Definitions” of the Nottawa Township Zoning Ordinance, and will be placed in the sections of the Zoning Ordinances identified below so that all definitions are in alphabetical order:

202.05 Abandonment: A Solar Energy System is abandoned if it has not been in operation for a period of one year. This includes a Solar Energy System that was never operational if construction has been halted for a period of one year. The Planning Commission may extend this one year period upon good cause shown.

202.7.5 Building Integrated Photovoltaics (BIPVs): A small Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

202.42.5 Non participating parcel: A parcel that is adjacent to an energy facility and that is not a participating parcel.

202.44.5 Participating Parcel: A parcel that either is owned by an applicant or that is the subject of an agreement that provides for the payment by an applicant to a landowner of monetary compensation related to an energy facility regardless of whether any part of that energy facility is constructed on the property.

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

202.48.2 Solar Energy System, Ground Mounted: A Small Solar Energy System or Large Solar Energy System that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.

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

202.48.4 Solar Energy System, Roof or Building Mounted: A Small Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

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

202.48.6 Large Scale Utility Energy System 50 megawatts: Any solar energy facility with a nameplate capacity of 50 megawatts or more.

Section 2

Amendments to Article Three “Zoning districts and Map” of the Nottawa Township Zoning Ordinance, as amended

- a. Article Three, Section 300.305 “AR Districts: Agricultural Residential District”, Section 305.3 “Uses Permitted by Special Use Permit in an AR District”, is hereby amended by the addition of a new subsection designated “O” to read as follows:

“O. Large Solar Energy Systems subject to special use, see Section 300.509 and application and special use regulations therein.

Section 3

Amendment to Article Five “Special Use Permits” of the Nottawa Township Zoning Ordinance, as amended

Article Five “Special Use Permits” Section 300.500 of the Nottawa Township Zoning Ordinance, as amended, is hereby amended by the addition of a new section designated “300.509” to read as follows:

“300.509 Solar Energy Systems”

509.1 *General Provisions.* All Solar Energy Systems are subject to the following requirements:

1. All Solar Energy Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI).
2. The Township may revoke any approvals for, and require the removal of, any Solar Energy System that does not comply with this Ordinance.
3. Solar Energy Systems must be located or placed so that concentrated solar glare is not directed toward or onto nearby properties or roadways at any time of the day.
4. Solar Energy Systems and any related equipment, fencing, or screening must be maintained in good repair and kept clear of trash or other debris.
5. Solar Energy Systems are permitted in the Township as follows, subject to this Section and other applicable provisions of the Zoning Ordinance:

Type of System	Sub-Type of System	Zoning District	Special land Use Permit
Small Solar Energy System	Private BIPVs	All zoning districts	Not required
	Roof or Building Mounted Small Solar Energy System	All zoning districts as accessory use	Not required
	Ground Mounted Small Solar Energy Systems	All zoning districts as an accessory structure with size regulated by 401.1	Required if greater than 2600 sq ft
Large Solar Energy System	All Large Solar Energy System (Ground Mounted only)	AR	Required

509.2 Small Solar Energy Systems.

1. Small Solar Energy System BIPVs. Small Solar Energy System BIPVs are permitted as an accessory use in all zoning districts. A building permit and zoning compliance permit are required for the installation of BIPVs.

2. Roof or Building Mounted Small Solar Energy Systems. Roof or Building

Mounted Small Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to the following requirements:

- a. A building permit and zoning compliance permit are required for the installation of Roof or Building Mounted Small Solar Energy Systems.
- b. No part of the Solar Energy System erected on a roof is permitted to extend beyond the peak of the roof. If the Solar Energy System is mounted on a building in an area other than the roof, no part of the Solar Energy System is permitted to extend beyond the wall on which it is mounted.
- c. No part of a Solar Energy System mounted on a roof is to be installed closer than three feet from the edges of the roof, the peak, or eave or valley to maintain pathways of accessibility.
- d. No part of a Solar Energy System mounted on a roof is permitted to extend more than two feet above the surface of the roof. The total height may not exceed the maximum building height for the zoning district in which it is located.
- e. A Building Mounted Small Solar Energy System must not be mounted on a wall that is facing an adjacent public right-of-way unless the building is set back at least 300 feet from the public right-of-way.
- f. If a Roof or Building Mounted Small Solar Energy System has been abandoned, the property owner must remove it within three months after the date of abandonment.
- g. Roof or Building Mounted Small Solar Energy Systems must be located or placed so that concentrated solar glare is not directed toward or onto nearby properties or roadways at any time of the day.

3. Ground Mounted Small Solar Energy Systems. Ground Mounted Small Solar Energy Systems are allowed in all zoning districts, with the size regulated by 401.1. Greater than 2600 square feet requires a special use permit and site plan review. In addition to all requirements for a special land use permit under Article 5 of the Zoning Ordinance and site plan review and approval under Article 6 of the Zoning Ordinance, Ground Mounted Small Solar Energy Systems are also subject to the following requirements:

- a. *Site Plan.* Before installation of a Ground Mounted Small Solar Energy System, the property owner must submit a site plan to the Zoning Administrator. The site plan must include setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan must be drawn to scale. The site plan must be accompanied by photographs of the property in its current condition. *Minimum Acreage.* A Ground Mounted Small Solar Energy System may only be installed on a parcel that is one acre in size or larger.
- b. *Maximum Height.* A Ground Mounted Small Solar Energy System must not exceed eight feet above the ground when oriented at maximum tilt, measured from grade to the top of the highest panel.
- c. *Location.* A Ground Mounted Small Solar Energy System must be located in the rear yard and meet the rear yard setback requirements applicable in the zoning district, except that the Planning Commission may allow a Ground Mounted Small Solar Energy System to be located

in a side yard or front yard if (1) the Ground Mount Small Solar Energy System is set back at least 300 feet from the public right-of-way; and (2) locating the Ground Mount Small Solar Energy System in the front or side yard will not unreasonably interfere with the use and enjoyment of adjacent properties.

- d. Lot Area Coverage.* No more than 10% of the parcel may be covered by a Ground Mounted Small Solar Energy System.
- e. Drainage.* If more than 2,000 square feet of ground surface will be covered by the Ground Mounted Small Solar Energy System, then the applicant must include a drain management plan with its site plan.
- f. Underground Transmission.* All power transmission or other lines, wires, or conduits from a Ground Mounted Small Solar Energy System to any building or other structure must be located underground. If batteries are used as part of the Ground Mounted Small Solar Energy System, they must be placed in a secured container or enclosure.
- g. Screening.* Greenbelt screening is required around any Ground Mounted Small Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent properties. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence that is 50% opaque (and that meets the requirements of this Ordinance applicable to fences) may be used if approved by the Planning Commission
- i. Appearance.* The exterior surfaces of a Ground Mounted Small Solar Energy System must be generally neutral in color and substantially non-reflective of light.
- j. Abandonment.* If a Ground Mounted Small Solar Energy System has been abandoned, the property owner must notify the Township and remove the system within six months after the date of abandonment. The Planning Commission may extend this six month period upon good cause shown.
- k. Building Permit.* In addition to a special land use permit and site plan approval, a building permit is required for installation of a Ground Mounted Small Solar Energy System.
- l. Transferability.* A special land use permit for a Ground Mounted Small Solar Energy System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
- m. Remedies.* If an applicant or operator of a Ground Mounted Solar Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

509.3 Large Solar Energy System

Large Scale Utility Energy Systems 50+ megawatts : Pursuant Michigan Public Act 233 of 2023, Large Utility Solar Energy Systems (50 megawatts or greater) shall obtain their certificate for the energy facility from the Michigan Public Service Commission. This ordinance is more restrictive than section 226(8) of PA 233 of 2023 and is therefore not a “Compatible renewable energy ordinance” as defined in PA 233 of 2023. The township cannot deny an application unless it fails to meet requirements detailed in PA 233 of 2023, therefore the township may engage in good faith negotiations with any applicant of a Large Utility Solar Energy System to utilize Section 509.3.(2) of this ordinance and the section 226(8) of PA 233 of 2023 to develop requirements for a special use permit for the Large Utility Solare Energy System that complies with the spirit of this ordinance and is agreeable to the applicant.

Large Solar Energy System. Large Solar Energy System are only allowed on properties enrolled in the PA 116 Farmland and Open Space Preservation Program and require a special land use permit and site plan review. In addition to all requirements for a special land use permit under Article 5 of the Zoning Ordinance and site plan review and approval under Article 6 of the Zoning Ordinance, Large Solar Energy System are also subject to the following requirements:

1. *Application Requirements.* The applicant for a Large Solar Energy System must provide the Township with all of the following:
 - a. Application fee in an amount set by resolution of the Township Board.
 - b. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed operator, and the real property owners
 - c. A site plan that includes all proposed structures and the location of all equipment, transformers, and substations, as well as all setbacks, panel sizes and locations, and the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, lighting, proposed access routes, land elevations, structures on adjacent parcels, and road right of ways. The site plan must be drawn to scale and must indicate how the Large Solar Energy System will be connected to the power grid.
 - d. Scaled drawings depicting the location, height, elevation, and size of all components of the Large Solar Energy System.
 - e. A map and narrative description of the land uses of all nonparticipating parcels adjacent to the Large Solar Energy System.
 - f. A list of all parcel numbers that will be used by the Large Solar Energy System; documentation establishing ownership of each parcel; legal descriptions for each parcel; and any lease agreements, easements, letters of intent, or purchase agreements for the subject parcels demonstrating the property owners' consent to include the parcels in the Large Solar Energy System.
 - g. A plan for managing erosion and sediment control.
 - h. A plan for meeting or exceeding pollinator standards throughout the lifetime of the facility, as established by the “Michigan Pollinator Habitat Planning Scorecard for Solar Sites” developed by the Michigan State University Department of Entomology in effect on the effective date of the amendatory act that added this section or any applicable successor standards approved by the commission as reasonable and consistent with the purposes of this subdivision. Seed mix used to establish pollinator plantings shall not include invasive species as identified by the Midwest Invasive Species Information Network, led by researchers at the Michigan State University Department of Entomology and supporting regional partners.

- i. An operations agreement setting forth the operations parameters, the applicant's inspection protocol, security and emergency procedures, and general safety documentation. The security and emergency procedures must describe how the applicant or operator will prevent unauthorized access to the Large Solar Energy System and warn and protect the public about potential dangers during the construction, operation, removal, maintenance or repair of the Large Solar Energy System.
- j. Current photographs of the subject property.
- k. A graphical demonstration (preferably computer-generated) of the Large Solar Energy System as completed.
- l. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Large Solar Energy System.
- m. A written plan and schedule for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
- n. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Large Solar Energy System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to remove the Large Solar Energy System in accordance with the decommissioning requirements.
- o. An escrow payment that meets the requirements of this Section.
- p. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Large Solar Energy System.
- q. A plan for managing any hazardous waste.
- r. A description of any electromagnetic interference that may be generated by the Large Solar Energy System.
- s. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation.
- t. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Solar Energy System.
- u. A copy of the manufacturer's installation instructions, safety data sheets, and safety measures.
- v. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.
- w. An environmental impact study that evaluates the environmental impact of the Large Solar Energy System, including its impact on water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, areas of aesthetic or historic important, archeological or cultural concerns, neighboring properties uses, utilities and infrastructure, noise, and any other relevant factors.

- x. The proposed energy facility will not unreasonably diminish farmland, including, but not limited to, prime farmland and, to the extent that evidence of such farmland is available in the evidentiary record, farmland.
- y. An estimated construction timeline.
- z. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative

2. *System and Location Requirements.*

- a. Large Solar Energy Systems must be ground mounted.
- b. Large Solar Energy Systems must be located on parcels of land 15 acres in size or larger.
- c. The total acreage that may be used for Large Solar Energy Systems is limited to 1% (240 acres) of the land in the township and is determined by the amount of acreage covered by solar panels (so as to not unreasonably diminish farmland based on several statements by power company officials and the Michigan Public Service Commission that the alternative energy needs of Michigan would use less than 1% of Michigan land. This ordinance would limit large solar projects to our fair share of the states required land for solar projects. The Township's Master Plan repeatedly states the desire to preserve farmland and protect the agricultural and rural character of the township for the purpose of promoting and protecting the public health, safety, peace, and general welfare of the inhabitants of the Township).
- d. There must be 1 mile of separation between Large Solar Energy System as measured from the fenced in area of the Solar Energy System.
- e. Large Solar Energy System Large Solar Energy Systems are only permitted on properties enrolled in the PA 116 Farmland and Open Space Preservation Program.
- f. **Non-Participating Parcel Setbacks** for Large Solar Energy Systems (including all solar panels, structures, and equipment) must be set back 350 feet from all parcel lines and 200 feet from all public road rights-of-way.
- g. **Participating Parcel Setbacks** for Large Solar Energy systems: Proof of being a participating parcel must be in writing and included with the application. Setbacks for participating parcels are presented in the table below and are dependent on parcel type.

Parcel Type	Minimum Setback allowed for Participating parcel
Adjoining agricultural parcel (vacant)	20'
Adjoining agricultural parcel (improved)	20' from parcel line or 150' from dwelling
Residential parcel (improved or vacant)	150'
Commercial parcel (improved or vacant)	60'
Industrial parcel (improved or vacant)	20'
Adjoining parcel with solar array operated by different company	20' Nature Corridor

- h. The height of the solar equipment on their mounts and oriented at maximum tilt measured from the natural grade at the base of the component must not exceed 15'. Lightning rods may exceed 15 feet in height, but they must be limited to the height necessary to protect the Large Solar Energy system from lightning.

3. *Permits.* All required county, state, and federal permits must be obtained before the applicant or operator begins construction of any phase of the Large Solar Energy System.

4. *Escrow Account.*

- a. The applicant must establish an escrow account when it submits its application for a Large Solar Energy System. The amount must equal an estimate of the total costs of (1) reviewing and processing the special use permit application and site plan, including publication and administrative costs and costs of the Township Attorney, Township Planner, and Township engineer; and (2) any professional studies or report prepared by the Township or on the Township's behalf to assist with its evaluation of the application.
- b. The Township may draw from the escrow account to reimburse any of its costs or expenses incurred in reviewing, processing, and evaluating the application before approval or denial. The Township may require the applicant to replenish the escrow account at any time to ensure a sufficient balance.
- c. The escrow account will be maintained and must continue to be replenished while the Large Solar Energy System is in operation, and the Township may draw from the escrow account to pay any costs incurred in enforcing this Ordinance with respect to the Large Solar Energy System, including, but not limited to, legal fees and expenses and costs to complete maintenance tasks required to bring the Large Solar Energy System into compliance with the Ordinance. If the Township instructs the applicant to replenish the escrow account and the applicant fails to do so within 30 days after receiving notice, then the Township has no further obligation to process the applicant's application until the escrow account is replenished. If the application has already been approved, then the applicant's failure to replenish the escrow account within 30 days after receiving notice is a violation of this Ordinance for which the Township may, upon notice and a hearing, revoke the special land use permit.
- d. Any funds in the escrow account that exceed the Township's actual costs after the application is denied (and after any and all appeals have been exhausted), or after the Large Solar Energy System is decommissioned if the application is approved, will be returned to the applicant. The Township will provide an itemized statement to the applicant upon the applicant's request.

5. *Screening.* Large Solar Energy Systems shall include a landscaping and screening buffering plan. The plan will be reviewed through the approval process to assure that the proposed Large Solar Energy System is appropriately landscaped in relation to adjacent land uses and road rights-of-ways. The Township may utilize an expert to review the landscaping and screening buffering plan to determine if acceptable/compatible species have been selected as part of the landscaping and screening buffering plan. Evergreen plantings and/or berms shall be used to mitigate views of the Large Solar Energy System from road rights-of-ways and from residential structures to the extent possible. For residential structures, visual mitigation is required within 1,300 feet from the Large Solar Energy System during all times of the year. Exceptions to landscaping requirement may be granted by the planning commission on a case-by-case basis.

Requirements:

- a. The applicant shall submit landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, and planting.
- b. All LSES shall have a minimum landscape buffer of 25 feet along any road or adjacent to a residential use, which shall consist of grass ground cover and (2) rows of closely-spaced, staggered evergreen plantings, planted no more than twelve (12) feet on center, front to back and side to side, which can reasonably be expected to form a visual barrier that is at least eight (8) feet above ground level within three (3) years of planting. The minimum height at time of planting shall be no less than six (6) feet in height with a diameter of no less than four (4) feet at its base and a species of evergreen that produces dense growth capable of producing a complete visual barrier. The landscape buffer shall be installed outside of SEF fence line extending towards the road or residential use.
- c. Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the LSES pursuant to practices of best management of natural areas or good husbandry of the land or forest other prescribed by applicable laws, regulations, and bylaws.
- d. Each owner, operator or maintainer of a solar energy facility shall maintain the landscape buffer so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased landscaping shall be removed and must be replanted at the next appropriate planting time. The buffer zone may be utilized for agricultural use.
- e. Applicant must provide detailed maintenance plan for the proposed solar energy system and surrounding area, including provisions that will be employed to maintain and promote native vegetation while minimizing the proliferation of invasive vegetation during and following construction.
- f. Applicant must provide a plan for meeting or exceeding pollinator standards throughout the lifetime of the facility, as established by the "Michigan Pollinator Habitat Planning Scorecard for Solar Sites" developed by the Michigan State University Department of Entomology in effect on the effective date of the amendatory act that added this section or any applicable successor standards approved by the commission as reasonable and consistent with the purposes of this subdivision. Seed mix used to establish pollinator plantings shall not include invasive species as identified by the Midwest Invasive Species Information Network, led by researchers at the Michigan State University Department of Entomology and supporting regional partners.
- g. Wherever screening is adjacent to a residence and/or non-participating lot, the Planning Commission may require additional screening methods consistent with industry standards or complaints submitted pursuant Section 19.

6. *Lighting.* The Large Solar Energy System must utilize Dark sky-friendly lighting technology that is designed to minimize the amount of light that escapes upward into the sky. The Large Solar Energy System must utilize the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lots used for the Large Solar Energy System. No flashing/strobing lights may be utilized as part of the Large Solar Energy System.

7. The Large Solar Energy System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

8. *Signs.* The Large Solar Energy System must not display any signs, logos, advertising, graphics, lettering, or commercial inscriptions on the solar arrays or any part of the Large Solar Energy System. The

Solar Farm may only post the warning signs required under this Ordinance and signs at each entrance to the Large Solar Energy System, subject to all Township sign regulations.

8. *Security Fencing.* The applicant or operator must install a seven (7) foot wildlife (woven wire) fence around the perimeter of the Large Solar Energy System, which must enclose all electrical equipment related to the Large Solar Energy System, including any transformers and transfer stations. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Large Solar Energy System, which must include emergency contact information and emergency shutdown procedures.

9. *Noise.* The noise generated by a Large Solar Energy System must not exceed the following limit:

a. The solar energy facility does not generate a maximum sound in excess of 45 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. The Large Solar Energy System must provide quarterly proof of compliance with the noise requirement as part of its annual report.

10. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Large Solar Energy System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation. If batteries are used as part of the Ground Mounted Solar Energy System, they must be placed in a secured container or enclosure.

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

12. *Damage to Roads.* The applicant and operator are jointly responsible for any damage to any public roads in the Township caused by the initial construction, decommission or maintenance (that would require a building permit) of the Large Solar Energy System, as assessed by County Road Commission. Applicant and operator will have a road use maintenance agreement with County Road Commission.

13. *Insurance.* The applicant or operator must maintain property/casualty insurance and general commercial liability insurance and provide proof of insurance to the Township before approval of any special land use permit and after approval on a quarterly basis.

14. *Decommissioning.* If a Large Solar Energy System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six months after the date of abandonment. The Planning Commission may extend this six-month period upon good cause shown. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. Decommissioning requires removing all structures, fencing, equipment foundations, footings, and debris to a depth of four feet and restoring the soil and vegetation to the condition they were in before construction of the Large Solar Energy System. The requirements of this subsection also apply to a Large Solar Energy System that is never fully completed or operational if construction has been halted for a period of one year.

15. *Financial Security.* To ensure proper decommissioning of a Solar Farm upon abandonment, the applicant must post a financial security in the form of a surety bond with MDARD or post financial security in the form of a surety bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be

approved by the Township. The operator and the Township will review the amount of the financial security every two years to ensure that the amount remains adequate. This financial security must be posted within 15 business days after approval of the special land use application. If the applicant or operator fails to timely decommission the Solar Farm as required under this Ordinance, then the Township may draw from the financial security to decommission the Solar Farm and to pay any costs associated with decommissioning, including legal fees and expenses.

16. *Extraordinary Events.* If the Solar Farm experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

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

- a. Current proof of insurance;
- b. Verification of financial security;
- c. A summary of compliance with MDARD requirements;
- d. A summary of compliance with noise requirements; and
- e. A summary of use of buffer zone and compliance with "Michigan Pollinator Habitat Planning Scorecard for Solar Sites" for fenced area of Large Solar Energy System.

18. *Inspections.* The Township may inspect a Large Solar Energy System at any time by providing 24 hours advance notice to the applicant or operator.

19. *Complaints Resolution*

- a. The Large Solar Energy System (LSES) applicant shall submit a detailed, written complaint resolution process developed by the LSES applicant to resolve complaints from the Township Board or the property owners or residents concerning the construction or operation of the LSES. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the conditional land use permit application.
- b. The Township Board shall appoint a 3 member complaint resolution committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owner or resident and the LSES owner.
- c. The complaint resolution committee shall consist of (1) Township Board member, (1) Planning Commission member, and (1) qualified elector chosen by the Township Board from the community.
- d. In the event the LSES owner is determined at fault for a violation following the complaint resolution discussions/process, the owner shall be responsible for all costs incurred by the Township in coming to a resolution, in addition to any other penalties for violations of the Township's Zoning Ordinance. This section is not a waiver of the Township's authority to seek any relief at law or equity to abate such violations.
- e. The Township Board shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. The Township Board shall be authorized to enforce any resolution of each complaint.

20. *Expiration.* The special land use permit expires if the Large Solar Energy System has not started construction within 24 months after the date of issuance. The Planning Commission may extend this 24-month period upon good cause shown.

21. *Transferability.* A special land use permit for a Large Solar Energy System may be transferred to a new owner, successor, assigns, with pre-approval by Township Planning Commission, which shall not be unreasonable withheld. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

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

23. (1) The applicant may enter into a host community agreement with each affected local unit. The host community agreement shall require that, upon commencement of any operation, the energy facility owner must pay the affected local unit \$2,000 per megawatt capacity located within the affected local unit. The payment shall be used as determined by the affected local unit for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

(2) If an affected local unit refuses to enter into a host community agreement after good-faith negotiations with the applicant, the applicant may enter into a community benefits agreement with 1 or more community-based organizations within or that serve residents of, the affected local unit. The amount paid by the applicant under this subsection must be equal to, or greater than, what the applicant would pay to the affected local unit under subsection (1). Community benefits agreements shall prioritize benefits to the community in which the energy facility is to be located. The topics and specific terms of the agreements may vary and may include, but are not limited to, any of the following:

(a) Workforce development, job quality, and job access provisions that include, but are not limited to, any of the following:

(i) Terms of employment, such as wages and benefits, employment status, workplace health and safety, scheduling, and career advancement opportunities.

(ii) Worker recruitment, screening, and hiring strategies and practices, targeted hiring planning and execution, investment in workforce training and education, and worker input and representation in decision making affecting employment and training.

(b) Funding for or providing specific environmental benefits.

(c) Funding for or providing specific community improvements or amenities, such as park, and playground equipment, urban greening, enhanced safety crossing, paving roads, and bike paths.

(d) Annual contributions to a nonprofit or community-based organization that awards grants.

(3) A host community agreement or community benefits agreement is legally binding and inures to the benefit of the parties and their successors and assigns. The commission shall enforce this requirement, but not the actual agreements, which are enforceable in a court of competent jurisdiction.

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. Repealed.

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

Section 6. Effective Date.

This Ordinance takes effect _____ 2024, seven (7) days after publication as provided by law.

Supervisor: _____

Date:

I hereby certify that the foregoing is a true and complete copy of the Nottawa Township Solar Energy Ordinance adopted by the Nottawa Township Board at a regular meeting held on the date stated above and I further certify that public notice of such meeting was given as provided by law.

Clerk: _____

Date: