

**TOWNSHIP BOARD
BUSHNELL TOWNSHIP
MONTCALM COUNTY, MICHIGAN**

(Ordinance No. 071123-1)

At a regular meeting of the Township Board for Bushnell Township held at the Township Hall on July 11, 2023, and commencing at 6:00 p.m., the following Ordinance was offered for adoption by Township Board Member Karron Bliss and was seconded by Township Board Member Mike Fitzgerald:

**AN ORDINANCE REGULATING THE CONSTRUCTION, OPERATION,
AND DECOMMISSIONING OF COMMERCIAL SOLAR ENERGY
CONVERSION SYSTEMS THROUGHOUT BUSHNELL TOWNSHIP.**

THE TOWNSHIP OF BUSHNELL (THE “TOWNSHIP”) ORDAINS:

Section 1. Title.

This Ordinance may be cited as the Bushnell Township Commercial Solar Energy Conversion Systems Ordinance.

Section 2. Purpose and Intent.

- A. The purpose of this Ordinance is to protect the health, safety, and welfare of the residents of the Township; provide for the safe, effective, efficient, and orderly construction, operation, and decommissioning of commercial solar energy conversion systems within the Township; protect and preserve historic agricultural and recreational activities within the Township; protect and preserve the Township’s environmental and ecological assets, wetlands, and other ecological and environmentally sensitive areas; protect and preserve the open spaces, views, and rural aesthetics of the Township; and to provide regulations that balance the often-competing interests of property owners, their neighbors, and the community.
- B. It is the intent of this Ordinance to regulate the activities associated with and comprising the construction, operation, and decommissioning of commercial solar energy conversion systems. Any interpretation to the contrary contradicts the express legislative intent of this Ordinance.

Section 3. Definitions.

The following definitions will apply unless the context clearly indicates or requires otherwise:

Abandonment: A commercial solar energy conversion system, or any portion thereof, is abandoned if it has not been in substantial operation for a period greater than one year.

This includes a commercial solar energy conversion system, or any portion thereof, that was never operational, or if construction has been halted for a period greater than one year.

Commercial solar energy conversion system. A commercial solar energy conversion system is defined to mean a solar energy conversion system for which the principal design, purpose, or use is to provide energy for off-premises use or for the wholesale or retail sale of generated electricity to any person or entity.

Non-participating parcel. A non-participating parcel is defined to mean a parcel not under lease, easement, or other agreement authorizing activities or specific impacts related to or comprising the construction, operation, or decommissioning of a commercial solar energy conversion system on the parcel.

Parcel. A is defined to mean a parcel or lot as defined in the Land Division Act, PA 288 of 1967 (MCL 560.101 *et seq.*), as amended, or a condominium unit as defined in the Condominium Act, PA 59 of 1978 (MCL 559.101 *et seq.*), as amended.

Participating parcel. A participating parcel is defined to mean a parcel under lease, easement, or other agreement authorizing activities or specific impacts related to or comprising the construction, operation, or decommissioning of a commercial solar energy conversion system on the parcel.

Photovoltaic energy conversion system: A photovoltaic energy conversion system is defined to mean any part of a system, including but not limited to photovoltaic panels, inverters, transformers, access roads, lines, wires, conduits, gen-ties, and cables that convert solar energy into electricity and transfer the electricity to a consumer or to the electric grid.

Solar energy conversion system: A solar energy conversion system is defined to include both photovoltaic energy conversion systems and thermal energy conversion systems.

Solar panel: A solar panel is defined to include both photovoltaic panels and thermal panels.

Thermal energy conversion system: A thermal energy conversion system is defined to mean any part of a system, including but not limited to thermal panels, pumps and controllers, storage tanks, transformers, access roads, lines, wires, conduits, gen-ties, and cables that convert solar energy into heat and transfer the heat to a consumer or utilizes the heat to generate electricity and transfers the electricity to a consumer or to the electric grid.

Township permit. A Township permit is defined to mean a permit for a commercial solar energy conversion system issued by the Township pursuant to this Ordinance.

Section 4. General

- A. The construction, operation, and decommissioning of commercial solar energy conversion systems must comply with the requirements of this Ordinance.
- B. The construction and operation of commercial solar energy conversion systems without a Township permit are prohibited.
- C. A Township permit is a revocable privilege granted by the Township. The application for a Township permit does not create or vest any right, title, franchise, or other property interest. The granting of a Township permit does not create or vest any right, title, franchise, or other property interest past the initial term of the permit. Township permits are non-renewable.

Section 5. Permit Application.

- A. All applications for a Township permit must be filed with the Township Clerk utilizing and complying with the Township application, forms, and processes, as adopted from time to time by resolution of the Township Board. Only complete applications will be accepted.
- B. As part of the application process, the applicant may be required to provide any information reasonably deemed by the Township to be relevant to the determination of Township permit approval.
- C. The following are required as part of any Township permit application:
 - 1. The escrow deposit as required by Section 9.
 - 2. The non-refundable application fee as determined from time to time by resolution of the Township Board.
 - 3. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed commercial solar energy conversion system operator if known, and the owners of the participating parcels being utilized as a part of the commercial solar energy conversion system project.
 - 4. Commercial solar energy conversion system project description identifying the planned commercial solar energy conversion system capacity in megawatts; construction sequence and timeline; development phases if any; rated useful life of equipment including solar panels, transformers, and inverters; and possible future expansions.
 - 5. If the applicant is not the property owner, an affidavit or evidence of an agreement establishing that the applicant has the requisite permissions of the participating parcel property owners to apply for the Township permit.

6. Scaled renderings depicting a minimum of three views of the commercial solar energy conversion system including one view from the public right-of-way.
7. A site plan showing the size and location of all proposed buildings, structures, and equipment including but not limited to transformers by type, inverters by type, and solar panels by type; required setbacks; parcel lines; solar panel coverage area; signage; fences; vegetation; drainage systems; easements; public rights-of-way; private roads; floodplains; bodies of water; lighting; proposed access routes; gen-tie and collection lines; and land elevations. The site plan must be drawn to scale and indicate how the commercial solar energy conversion system will be connected to the electric grid.
8. Noise impact study and noise level map depicting and describing the predicted noise levels on all impacted parcels and the surrounding environment during the construction, operation, and decommissioning of the commercial solar energy conversion system.
9. Noise mitigation and compliance plan describing how the Township permit holder will ensure the construction, operation, and decommissioning of the commercial solar energy conversion system complies with the noise requirements of this Ordinance.
10. Glare study and glare map depicting and describing the predicted glare levels on all impacted parcels and the surrounding environment during the construction, operation, and decommissioning of the commercial solar energy conversion system.
11. Glare mitigation and compliance plan describing how the Township permit holder will ensure the construction, operation, and decommissioning of the commercial solar energy conversion system complies with the glare requirements of this Ordinance.
12. Electromagnetic signal interference study and map depicting and describing the predicted electromagnetic signal interference on all impacted parcels and the surrounding environment during the operation of the commercial solar energy conversion system.
13. Electromagnetic signal interference mitigation and compliance describing how the Township permit holder will ensure the operation of the commercial solar energy conversion system complies with the electromagnetic signal interference requirements of this Ordinance.
14. Environmental and ecological impact study detailing the effect the construction, operation, and decommissioning of the commercial solar energy conversion system will have on all impacted parcels and the surrounding environment. The environmental and ecological impact study must address water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, erosion and

sediment control, drainage, areas of aesthetic or historic importance, archeological or cultural concerns, utilities and infrastructure, noise, glare, light pollution, waste disposal, compliance with the requirements of Part 31 - Water Resources Protection, of the Natural Resources and Environmental Protection Act, Part 91- Soil Erosion and Sedimentation Control, Part 301 - Inland Lakes and Streams, Part 303 - Wetlands, Part 365 - Endangered Species Protection, and any other relevant factors and regulations.

15. Mitigation plan and compliance plan describing how the Township permit holder will ensure compliance with the requirements of this Ordinance and mitigate the environmental and ecological impact of the construction, operation, and decommissioning of the commercial solar energy conversion system. The environmental and ecological impact study must address water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, erosion and sediment control, drainage, areas of aesthetic or historic importance, archeological or cultural concerns, utilities and infrastructure, noise, glare, light pollution, waste disposal, compliance with the requirements of Part 31 - Water Resources Protection, of the Natural Resources and Environmental Protection Act, Part 91- Soil Erosion and Sedimentation Control, Part 301 - Inland Lakes and Streams, Part 303 - Wetlands, Part 365 - Endangered Species Protection, and any other relevant factors and regulations.
16. A transportation plan to be utilized during the construction, operation, and decommissioning of the commercial solar energy conversion system including any applicable agreements with the Montcalm County Road Commission and the Michigan Department of Transportation.
17. A decommissioning plan demonstrating compliance with the requirements of Section 12.
18. A decommissioning estimate consistent with the requirements of Section 10.

Section 6. Permitting.

- A. Within sixty calendar days of receiving a completed Township permit application, the Township Clerk will present the application to the Township Board.
- B. The Township Board will hold a public hearing on the Township permit application prior to rendering any final determination.
- C. The Township Board is the permitting authority. Township permits will be issued if the Township Board finds that the application and proposed construction, operation, and decommissioning of the commercial solar energy conversion system comply with the requirements of this Ordinance and that the construction, operation, and decommissioning of the commercial solar energy conversion system would not be unreasonably detrimental to the health, safety, and welfare of the general public. Township permits will specify the approved commercial solar energy conversion system

project capacity, site plan, noise mitigation and compliance plan, glare mitigation and compliance plan, electromagnetic interference mitigation and compliance plan, environmental and ecological mitigation and compliance plan, transportation plan, drain tile maintenance plan, and decommissioning plan. The Township Board may impose additional conditions as terms of the Township permit in order to ensure compliance with the requirements of this Ordinance.

- D. No Township permit will be issued until the requirements of Sections 10 and 11 have been met.
- E. A Township permit is only transferable with prior approval of the Township Board following a public hearing. The new permit holder must comply with this Ordinance and the terms of the Township permit.
- F. Unless revoked, a Township permit is valid for forty years following the date of issuance.

Section 7. Modification and Revocation.

- A. Following the issuance of a Township permit, modification of the Township permit terms must be approved by the Township Board.
 - 1. Application for modifications will be made in accordance with Section 5 in the same manner as an initial application.
 - 2. Approval of modifications will be made in accordance with Section 6 in the same manner as the initial application.
- B. A Township permit may be revoked by the Township Board for the following reasons:
 - 1. Violation of this Ordinance or terms of the Township permit.
 - 2. Fraud or misrepresentation in the Township permit application.
 - 3. Failure to maintain decommissioning financial security as required by Section 10.
 - 4. Failure to maintain insurance as required by Section 11.
- C. Prior to the revocation of a Township permit, the Township holder must be given written notice of the basis for the revocation and a hearing before the Township Board.

Section 8. Commercial Solare Energy Conversion System Requirements.

- A. The construction and operation of commercial solar energy conversion systems are prohibited on parcels less than twenty acres in size.

- B. The construction and operation of commercial solar energy conversion systems are not permitted on property enrolled in the Farm Land and Open Space Preservation Program under Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1994 (MCL 324. 36101 *et. seq.*), as amended.
- C. Solar panels must be ground-mounted and may not exceed a height of fifteen feet when measured from the ground to the top of the panel when oriented at maximum tilt.
- D. All above-ground structures and equipment including but not limited to solar panels, transformers, and inverters must be setback a minimum of 250 feet from the parcel lines of non-participating parcels, and a minimum of 250 feet from all public rights-of-way. Solar panel setbacks will be measured as the shortest straight line from the parcel line to the solar panel as if oriented parallel to the ground. Setback requirements do not apply to fencing and greenbelt screening.
- E. All above-ground structures and equipment including but not limited to solar panels, transformers, and inverters must be setback a minimum of 300 feet from all residential dwellings occupied or legally permitted to be occupied on participating parcels as of the date of the Township permit approval. Solar panel setbacks will be measured as the shortest straight line from the parcel line to the solar panel as if oriented parallel to the ground. Setback requirements do not apply to fencing and greenbelt screening.
- F. All above-ground structures and equipment including but not limited to solar panels, transformers, and inverters must be setback a minimum of 300 feet from all residential dwellings occupied or legally permitted to be occupied on non-participating parcels as of the date of the Township permit approval. Solar panel setbacks will be measured as the shortest straight line from the parcel line to the solar panel as if oriented parallel to the ground. Setback requirements do not apply to fencing and greenbelt screening.
- G. Greenbelt screening is required around the perimeter of the commercial solar energy conversion system and along any public rights-of-way.
 - a. Greenbelt screening should obscure the commercial solar energy conversion system to the greatest extent possible. The greenbelt must consist of shrubbery, trees, grasses, and other plant species that provide a visual screen. All greenbelt screening must be properly maintained. Existing vegetation will be maintained to the greatest extent feasible.
 - b. The greenbelt must consist of two staggered rows of evergreen trees that are at least six feet tall at the time of planting. Trees will be spaced in a manner that facilitates healthy growth and maximizes visual screening.
 - c. The Township Board, at its sole discretion, may waive or modify the requirements of paragraph 8(G)(b) if it finds that existing vegetation or other proposed greenbelt planting fulfills the requirements of paragraph 8(G)(a).

- H. The commercial solar energy conversion system must be enclosed by fencing that meets the requirements of the National Electric Code, as amended. Barbed wire is prohibited in perimeter fencing.
- I. Lighting of the commercial solar energy conversion system must be limited to the minimum light necessary for safe operations. Illumination from any lighting must not extend beyond the perimeter of the parcels used for the commercial solar energy conversion system.
- J. The commercial solar energy conversion system must not produce any glare that interferes with the use of neighboring parcels, private roads, and public rights-of-way.
- K. The noise pressure level generated by a commercial solar energy conversion system must not exceed 45 dBA Lmax as measured at the perimeter of all non-participating parcels.
- L. The noise pressure level generated by a commercial solar energy conversion system must not exceed 45 dBA Lmax as measured at all residential dwellings occupied or legally permitted to be occupied on participating parcels as of the date of the Township permit approval.
- M. The noise pressure level generated by a commercial solar energy conversion system must not exceed 45 dBA Lmax as measured at the perimeter of all public rights-of-way.
- N. To the extent feasible, unless otherwise required by the State of Michigan or federal agency having jurisdiction, all collection lines, wires, conduits, cables, and gen-tie lines connecting the solar panels transformers, inverters, and point of connection to the electric grid must be located underground.
- O. Commercial solar energy conversion systems must be constructed and operate in accordance with all applicable laws, ordinances, codes, rules, and regulations.
- P. Commercial solar energy conversion systems must be constructed, operated, and decommissioned in a manner that does not produce unreasonable negative environmental and ecological impacts.
- Q. Commercial solar energy conversion systems must be constructed and operated in a manner that does not produce unreasonable electromagnetic interference.
- R. The commercial solar energy conversion system must be designed, planted, and maintained to achieve an overall score of at least 76 on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites, as amended. Any plantable portion of the solar farm not included in pollinator plantings must be maintained in accordance with United States Department of Agriculture - Natural Resource Conservation Service Conservation Cover Standard 327, as amended.

- S. To the extent feasible, all existing drain tile within the commercial solar energy conversion system must be properly maintained in working order during the construction, operation, and decommissioning of commercial solar energy conversion system.
- T. If the commercial solar energy conversion system experiences a fire; leakage of hazardous materials; personal injury resulting in loss of life, limb, or eyesight; or other extraordinary or catastrophic event, the Township permit holder must notify the Township no later than the second business day following the event.

Section 9. Escrow Account.

- A. The applicant must fund an escrow account at the time of application for a Township permit.
- B. The escrow account must remain funded for sixty calendar days following the Township Board's final determination regarding the Township permit application.
- C. The escrow account amount will be determined from time to time by resolution of the Township Board and is intended to cover the Township's cost regarding technical or legal matters related to the processing of the Township permit application.
- D. The Township may draw upon the escrow account to cover the Township's actual costs regarding technical or legal matters related to the processing of the Township permit application.
- E. The applicant will be entitled to the return of all unused funds of the escrow account sixty calendar days following the Township Board's final determination on the Township permit application.
- F. If the Township, requires the applicant to replenish the escrow account and the applicant fails to do so within fourteen calendar days after receiving notice, then the application will be deemed abandoned, and the Township will take no further action regarding the Township permit application.
- G. The escrow account will be maintained by the Township consistent with the applicable Government Accounting Standard Board requirements. The Township may deposit escrow funds into any account with a depository financial institution. The Township need not segregate the escrow funds or deposit the escrow funds into an interest-bearing account. The applicant will not be entitled to any interest on the escrow funds.

Section 10. Decommissioning Financial Security.

- A. To ensure the proper and timely decommissioning of the commercial solar energy conversion system, the permit holder must maintain financial security from the issuance of the Township permit through the completion of final decommissioning.
- B. The financial security must be in the form of 1) a surety bond with terms acceptable to the Township naming the Township as the sole obligee or 2) an irrevocable letter of

credit with terms acceptable to the Township naming the Township as the sole beneficiary. The duration of the financial security will be termed to the completion of the decommissioning of the commercial solar energy conversion system as required by Section 12.

- C. The amount of financial security will be determined by the Township Board on a case-by-case basis and reasonably approximate the cost of decommissioning the permitted commercial solar energy conversion system. The financial security amount will not include salvage values. The applicant will provide the Township with an initial decommissioning estimate at the time of application for the Township permit.
- D. The financial security will be reviewed every five years by the Township Board. The Township permit holder will provide the Township Board with a then-current decommissioning estimate. Any increase or modification to the financial security must be provided to the Township within thirty calendar days of request.
- E. Required financial security must be filed with the Township Clerk following approval of the Township permit by the Township Board and prior to the issuance of the Township permit. Failure to file the required financial security with the Township Clerk within thirty days of Township permit approval will be deemed an abandonment of the Township permit.

Section 11. Insurance Requirements.

- A. Insurance must be maintained by the Township permit holder in full force and effect from the issuance of the Township permit through the completion of final decommissioning.
- B. The Township permit holder must maintain commercial general liability insurance on terms reasonably acceptable to the Township naming the Township as an additional insured. Insurance must be carried in an amount not less than Ten Million Dollars (\$10,000,000.00) for injury and damage arising out of a single occurrence.
- C. The insurance certificate must contain a clause stating that coverage may not be canceled, revoked, or modified without a minimum of thirty days' notice to the Township.
- D. In lieu of the commercial general liability insurance requirements set forth in subsections 11(B)-(C), a self-insured Township permit holder may enter into an indemnification agreement with the Township on terms acceptable to the Township. Such indemnification will be for an amount not less than Ten Million Dollars (\$10,000,000.00) for injury and damage arising out of a single occurrence.
- E. The insurance requirements of this section 11 must be met following approval of the Township permit by the Township Board and prior to the issuance of the Township permit. Failure to file the required insurance with the Township Clerk within thirty days of Township permit approval will be deemed an abandonment of the Township permit.

Section 12. Decommissioning.

- A. A commercial solar energy conversion system, or any part thereof, must be fully decommissioned within 365 calendar days of abandonment.
- B. Decommissioning requires the complete removal and disposal of the commercial solar energy conversion system, including but not limited to access roads, buildings, structures, and equipment including transformers, inverters, solar panels, foundations, signage, fences, collection lines, gen-tie lines, other lines, wires, conduits, and cables. Within one growing season the areas previously comprising the commercial solar energy conversion system must be planted with perennials that will stabilize the soil and prevent soil erosion.
- C. The Township may draw upon the security posted pursuant to Section 11 and complete the decommissioning if the decommissioning as required by this Section 12 is not timely completed.

Section 13. Violation and Penalty.

- A. Any person or entity who violates this Ordinance, permits or authorizes a violation of this Ordinance, or is the landowner of the parcel upon which the violation occurs, is responsible for a municipal civil infraction punishable by a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000) in addition to costs of prosecution and any other costs permitted at law.
- B. Any permittee who violates the terms of a Township permit is responsible for a municipal civil infraction punishable by a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000) in addition to costs of prosecution and any other costs permitted at law.
- C. Each day during which any violation continues is deemed a separate offense.
- D. A violation of this Ordinance is declared to be a nuisance *per se* subject to abatement.
- E. Nothing in this Section 13 precludes the Township from pursuing other remedies available at law or equity.

Section 14. Enforcement.

- A. The Montcalm County Sherriff's Department, the Michigan State Police, the Township Ordinance Enforcement Officer, and any other individual or entity designated by resolution of the Township Board are authorized to enforce this Ordinance.
- B. Any individual or entity authorized to enforce this Ordinance may, as a condition of the Township permit, enter onto participating parcels and inspect the commercial solar energy conversion system in order to ensure compliance with this Ordinance.

Section 15. Conflict.

- A. Nothing in this Ordinance will be construed in such a manner so as to conflict with existing Township ordinances except as otherwise stated herein.
- B. Nothing in the Ordinance shall be construed in such a manner so as to conflict with federal law, or any law of the State of Michigan.

Section 16. Repealer.

- A. Ordinance No. 071222 entitled “AN ORDINANCE REGULATING SOLAR FARMS THROUGHOUT BUSHNELL TOWNSHIP” is hereby repealed in its entirety.
- B. Any other ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 17. Savings Clause.

The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason by a court of competent jurisdiction, such declaration does not void any or render inoperable any other part or portion of this Ordinance.

Section 18. Effective Date.

This Ordinance is effective upon the expiration of the 30th day following its publication in the manner required by law.

The vote regarding the adoption of this Ordinance was as follows:

YEAS: P. Draper, M. Fitzgerald, K. Bliss, L. Belyou, C. Smith

NAYS: none

ABSENT/ABSTAIN: none

ORDINANCE DECLARED ADOPTED.

Chris Smith
Township Supervisor

Louise Belyou
Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Bushnell Township Board at the date, time, and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

Louise Belyou
Township Clerk

Adopted: July 11, 2023
Published:
Effective: