

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

(Ordinance No. _____)

At a regular meeting of the Township Board for Bushnell Township held at the Township Hall on July 12, 2022 and commencing at 6:00 p.m., the following Ordinance was offered for adoption by Township Board Member _____ and was seconded by Township Board Member _____:

**AN ORDINANCE REGULATING SOLAR FARMS THROUGHOUT
BUSHNELL TOWNSHIP.**

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

Section 1. Title.

This Ordinance may be cited as the Bushnell Township Solar Farm Ordinance.

Section 2. Purpose.

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 operation of solar farms 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, viewscales, and rural aesthetics of the Township; and to provide regulations that balance the often-competing interests of property owners, their neighbors, and the community.

Section 3. Definitions.

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

- Abandonment: A solar farm is abandoned if it has not been in substantial operation for a period of one year. This includes a solar farm that was never operational, or if construction has been halted for a period of one year.
- Parcel. 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.
- 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.

- Solar Farm: 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.
- Township Permit. A permit issued by the Township Board pursuant to this Ordinance authorizing a solar farm to be constructed and or operate within the Township.

Section 4. Solar Farms

- A. Unless permitted by, authorized by, and operated in strict accordance with the provisions of this Ordinance, solar farms are prohibited within the Township.
- B. Solar farms without a Township permit are prohibited within the Township.
- C. A Township permit is a revocable privilege granted by the Township. The application for or granting of a Township permit under this Ordinance does not create or vest any right, title, franchise, or other property interest.

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 required for the consideration of Township approval.
- C. The following are required as part of any application:
 1. The application fee in an amount set from time to time by resolution of the Township Board.
 2. The escrow deposit as required by Section 9.
 3. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed operator if known, and the real property owners of the parcels being utilized as a part of the solar farm.
 4. Project description identifying the planned capacity in megawatts; construction sequence and timeline; development phases if any; rated useful life of solar panels, transformers, and inverters; and possible future expansions.
 5. An affidavit or evidence of an agreement establishing that the applicant has the

permission of the property owner to apply for the necessary permits for the construction and operation of the solar farm.

6. Scaled renderings depicting the three typical views of the solar farm, including one view from the public right-of-way.
7. Site plan showing the size and location of all proposed structures and equipment including but not limited to transformers by type, inverters by type, and photovoltaic panels by type; required setbacks; parcel lines; signage; fences; greenbelts, vegetation, and screening; drainage systems; easements; rights-of-way; private roads; floodplains; bodies of water; lighting; proposed access routes; distribution, transmission, gen-tie, and collection lines; and land elevations. The site plan must be drawn to scale and must indicate how the solar farm will be connected to substations.
8. Noise impact study and noise level map.
9. Glare study and glare map.
10. Study showing estimated temporary and permanent job creation and tax impact associated with the solar farm.
11. Environmental and ecological impact studies detailing the effect the construction and operation of the solar farm will have on the parcels comprising the solar farm as well as the surrounding area and a plan for mitigating the negative environmental and ecological impact the construction and operation of the solar farm will have on parcels comprising the solar farm as well as the surrounding area. The impact study and mitigation plan must address water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, erosion and sediment control, areas of aesthetic or historic importance, archeological or cultural concerns, neighboring properties, utilities and infrastructure, noise, glare, light, waste disposal, and any other relevant factors.
12. Proof of environmental compliance, including compliance with 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 applicable laws and rules in force at the time the application is considered by the Township Board.
13. A transportation plan for construction and operation phases including any applicable agreements with the County Road Commission and the Michigan Department of Transportation.
14. A decommissioning plan demonstrating compliance with the requirements of Section 12.

Section 6. Permitting Process.

- A. Within sixty calendar days of receiving a completed application, the Township Clerk will present the application to the Township Board.
- B. The Township Board will hold a public hearing on the application prior to rendering any final determination.
- C. The Township Board is the permitting authority. Township permits will only be issued if the Township Board finds that the application and proposed operation of the solar farm comply with the requirements of this Ordinance and that the operation of the solar farm would not be unreasonably detrimental to the health, safety, and welfare of the general public. The Township Board may condition approval upon the fulfillment of certain criteria consistent with the requirements and intent 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 transferable to a new owner. The new owner must register its name and business address with the Township within ten business days of assuming ownership and must comply with this Ordinance and all approvals and conditions issued by the Township.

Section 7. Site Plan Modifications.

- A. Following the issuance of a Township permit, minor modifications to a solar farm site plan may be made following approval by the Township Supervisor. However, the Township Supervisor may refer any proposed minor modification to the Township Board for approval in accordance with the procedure set forth in paragraph 7(B). The determination of what constitutes a minor modification is at the Township Supervisor's reasonable discretion.
- B. Following the issuance of a Township permit, major modifications to a solar farm site plan must be approved by the Township Board prior to being made. Application and approval for modifications will be made in accordance with Sections 5 and 6 except that only those documents being modified need to be submitted and no public hearing is required prior to the approval of a modification unless such modification would alter the parcels being utilized as a part of the solar farm.

Section 8. Solar Farm Requirements.

- A. Photovoltaic 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.
- B. Solar farms may only be located on parcels of land that are twenty acres in size or larger.
- C. All above-ground structures and equipment including but not limited to transformers, inverters, and photovoltaic panels must be setback a minimum of 250 feet from all parcel

lines and a minimum of 250 feet from all public rights-of-way. If a solar farm is located on more than one parcel, the setbacks do not apply to the parcel lines shared by those parcels. Setback requirements do not apply to perimeter fencing and greenbelt screening.

- D. Inverters and transformers must be setback a minimum of 500 feet from all parcel lines and a minimum of 500 feet from all public rights-of-way. If a solar farm is located on more than one parcel, the setbacks do not apply to the parcel lines shared by those parcels.
- E. Greenbelt screening is required around the perimeter of the solar farm and along any public rights-of-way.
 - a. Greenbelt screening should obscure the solar farm 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 possible.
 - 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(E)(b) if it finds that existing vegetation or other proposed greenbelt planting fulfills the requirements of paragraph 8(E)(a).
- F. Lighting of the solar farm 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 solar farm.
- G. The solar farm must not produce any glare that interferes with the use of neighboring parcels, private roads, and public rights-of-way.
- H. The solar farm must be enclosed by fencing that meets the requirements of the National Electric Code, as amended. Barbed wire is prohibited in perimeter fencing.
- I. The noise pressure level generated by solar panels, inverters, and transformers must be shown to dissipate to 40 dB(A) Leq (1-min) at the solar farm perimeter or any public right-of-way.
- J. All collection lines, wires, conduits, and cables within the solar farm must be located underground. Distribution, transmission, and gen-tie lines within the solar farm may only be located above-ground when required by a state or federal agency having jurisdiction.
- K. Knox boxes containing keys, contact information, and solar farm schematics must be provided at all gated entrances for emergency personnel access.

- L. Solar farms must obtain and operate in accordance with all necessary federal, state, county, and Township permits and approvals.
- M. Solar farms must operate in accordance with all applicable federal, state, county, and Township laws, ordinances, codes, rules, and regulations.
- N. The solar farm 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.
- O. All existing drain tile must be properly maintained in working order.
- P. If the solar farm experiences a fire; leakage of hazardous materials; personal injury resulting in loss of life, limb, or eyesight; or other extraordinary or catastrophic event, the 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 permit application or application for modification.
- B. The escrow account must remain funded for sixty calendar days following the Township Board's final determination regarding the permit application or application for modification.
- 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 permit application or application for modification.
- 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 application or application for modification.
- 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 regarding the permit application or application for modification.
- F. If the Township instructs the applicant to replenish the escrow account and the applicant fails to do so within fourteen calendar days after receiving notice, then the Township will not process the applicant's permit application or application for modification until the escrow account is replenished.
- G. The escrow account will be maintained by the Township consistent with the applicable Government Accounting Standard Board requirements. The Township will record the

escrow in a separate general ledger. 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 solar farm, the permit holder must maintain financial security.
- B. The 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 security will be termed to the decommissioning of the solar farm as required by Section 11, as amended.
- C. The amount of each solar farm security will be determined by the Township Board on a case-by-case basis and reasonably approximate the cost of decommissioning the solar farm. Such security amount will not include salvage values. The applicant will provide the Township with a decommissioning estimate.
- D. The security will be reviewed every five years by the Township Board. The permit holder will provide the Township Board with a then-current decommissioning estimate. Any increase or modification to the security must be provided to the Township within thirty calendar days of request.
- E. Financial security must be filed with the Township Clerk after a Township permit has been approved by the Township Board but before the Township permit is issued and construction or operation begins.

Section 11. Insurance Requirements.

- A. Insurance must be maintained by the permit holder in full force from the issuance of the Township permit through final decommissioning.
- B. The permit holder must maintain general commercial liability insurance for the solar farm naming the Township as an additional insured. Insurance must be carried in an amount not less than Five Million Dollars (\$5,000,000.00) 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 general commercial liability insurance requirements set forth in paragraphs 11(B)-(C), a self-insured 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 Five Million Dollars (\$5,000,000.00) for injury and damage arising out of a single occurrence.

- E. Insurance requirements must be met after a Township permit has been approved by the Township Board but before the Township permit is issued and construction or operation begins.

Section 12. Decommissioning.

- A. A solar farm must be fully decommissioned within 365 days of abandonment.
- B. Decommissioning requires the complete removal of all solar farm components, including but not limited to, structures; equipment including but not limited to transformers, inverters, and photovoltaic panels; signage; fences; transmission, distribution, and collection lines; other lines, wires, conduits, and cables. The parcels previously comprising the solar farm must be planted with perennials that will stabilize the soil and prevent soil erosion within one growing season.
- C. The Township may draw upon the security posted by the permit holder for the decommissioning of the solar farm if the permit holder does not fully and timely complete the decommissioning as required this Section 12.

Section 13. Joint and Several Liability.

The permit holder and landowner are jointly and severally liable and responsible for ensuring compliance with this Ordinance. Either party may be cited and held responsible for a violation of this Ordinance.

Section 14. Violation and Penalty.

- A. A violation of this Ordinance constitutes 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. Each day during which any violation continues is deemed a separate offense.
- C. A violation of this Ordinance is declared to be a nuisance *per se* subject to abatement.
- D. Nothing in this Section 14 precludes the Township from pursuing other remedies available at law or equity.

Section 15. 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 the solar farm and conduct an inspection of the solar farm in order to ensure compliance with this Ordinance.

Section 16. 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 17. Repealer.

Any other ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 18. 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 19. 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: _____

NAYS: _____

ABSENT/ABSTAIN: _____

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.

Adopted:
Published:
Effective:

Respectfully submitted

Louise Belyou
Township Clerk