

# MARCELLUS TOWNSHIP

## Large Solar Energy System

### Ordinance

#### **ORDINANCE NO. 2022-5**

Adopted: March 15, 2022

**Effective: March 24, 2022**

#### Large Solar Energy Systems

- A. Purpose and Intent: The purpose and intent of this ordinance is to establish standards for the siting, installation, operation, repair, decommissioning and removal of Large Solar Energy Systems ("LSES").
- B. Definitions - LSES: A utility scale solar project consisting of ground mounted solar energy collectors, collector lines, transmission lines, switching stations or substations and other related facilities and equipment located within a solar project consisting of a minimum of 20 acres or more
- C. Site Plan Drawing and Supporting Materials: All applications for a LSES use must be accompanied by detailed site plans, drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan, displaying the following information:
  - 1. All requirements for a site plan contained in Section 10.21 of the Marcellus Township Zoning Ordinance in addition to the following:
  - 2. All lot lines and dimensions, including a legal description of each lot or parcel comprising the LSES.
  - 3. Names of owners of each lot or parcel within Marcellus Township that is proposed to be within the LSES.
  - 4. Vicinity map identifying the zoning classification of each lot or parcel within the LSES and the property immediately adjacent to

## the LSES

5. Location and height of all proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with a LSES.
6. Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
7. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the LSES and within one hundred (100) feet of all exterior property lines of the LSES.
8. Proposed setbacks from the Solar Array(s) to all existing and proposed structures within the LSES, provided that the distances between solar arrays or inverters shall not be required.
9. A topographical map of the property within the LSES at a minimum of five (5) foot contours and an example plan and profile showing the approximate height of the proposed structures.
10. Access driveways within and to the LSES, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. In the event the LSES is approved, the access drives must comply with Cass County Road Commission requirements and shall be approved by Cass County Road Commission prior to building permits being issued.
11. Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance, or repair of the LSES.
12. A written description of the maintenance program to be used for the Solar Array and other components of the LSES, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the LSES is decommissioned.
13. Planned lightening protection measures.

14. Additional detail(s) and information as required by the Conditional Use or Special Approval requirements of the Marcellus Township Zoning Ordinance, or as required by the Planning Commission or as a special approval land use. Large Solar Energy Systems may be located in all zoning districts except Lake Residential.
- D. **Application Fee:** The applicant for a LSES shall remit the appropriate fee along with the Conditional Use or Special Approval application pursuant to the fee schedule that has been approved by the Township Board. An escrow account shall be set up when the Conditional Use or Special Approval application is filed. The monetary amount deposited by the Applicant in escrow with the Township shall be the amount of \$15,000, to cover all reasonable costs and expenses associated with the Conditional Use or Special Approval review and approval process, which costs shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that are reasonably related to the zoning review process for the application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the Conditional Use or Special Approval review process, the Township may require that the Applicant place additional funds into escrow with the Township if the existing escrow amount deposited by the Applicant is deemed insufficient by the Township. If the escrow account needs replenishing and the Applicant refuses to do so within thirty (30) days, the Conditional Use or special approval process shall cease unless and until the Applicant makes the required additional escrow deposit. Any applicable zoning escrow Resolutions or other Ordinances adopted by the Township must also be complied with by the Applicant. The Township shall provide a summary of all account activity to the Applicant within a timely manner upon request. Any funds remaining within the escrow after approval of the Conditional Use or Special Approval shall be returned in a timely manner to the Applicant.
- E. **Compliance with the State Construction Code and the National Electric Safety Code:** Construction of a LSES shall comply with the National Electric Safety Code and the State Construction Code as a condition of any Conditional Use or Special Approval under this section. In the event of a conflict between the State Construction Code and National Electric Safety Code (NESC), the NESC shall prevail.
- F. **Certified Solar Array Components:** Components of a Solar Array shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("ETL"), or other similar certification organization if the similar certification organization is approved by the Township, which approval shall not be unreasonably withheld.

G **Height:** Maximum height of a Solar Array, other collection device, components, or buildings of the LSES, excluding substation and electrical transmission equipment, shall not exceed sixteen (16) feet (as measured from the natural grade at the base of improvements) at any time or location on the property. Substation and electrical transmission equipment shall not exceed one hundred (100) feet in height.

H. **Lot Size:** There is no minimum lot size. For LSES that are permitted by special approval or conditional land use, the Planning Commission may consider lot size when considering said systems compatibility with the surrounding area.

I. **Setbacks:** All Solar Panels, buildings and structures are required to be located at least 125 feet from any property line of an immediately adjacent non-participating parcel containing an existing dwelling or residence, and at least 50 feet from any other non-participating property line or right-of-way line of any highway, road or street. Said setback restrictions as stated herein shall not apply to the required security fence as described in paragraph 4. All Solar Panels, buildings and structures shall also be setback at least to the limit of any established County drain right-of-way or easement unless special provisions are formally agreed to with the Drain Commissioner so as not to impede/obstruct access along the County drain. The LSES shall not be required to meet the setbacks along property lines, except along a property line where a participating parcel within the solar energy system is located contiguous to a non-participating parcel.

J. **Safety:** A security fence shall be placed around the perimeter of the LSES. Fences for LSES are required to meet the National Electric Code (NEC) for their facility, as updated. Unless required to be taller by NEC, the security fence shall be at least six (6) feet tall and be designed to restrict unauthorized access and also be aesthetically compatible and must be either be painted camouflaged, earth tones or use dark screening netting. Any gate over any access road to the LSES shall be of the same height and material as the fence. Barbed wire and/or razor wire shall be prohibited and shall not be utilized for any portion of a security fence, except around the perimeter of a substation or switching station. In addition to the requirements stated herein, said security fence, including but not limited to its specific location, shall be in compliance with the Ordinance.

K **Signage:** Signs are required as part of the LSES to provide the public with general information related to knowledge and safety of the facility. The size, height, and location of said signs shall be at the discretion of the Planning Commission and or Township Board. Such sign shall contain emergency contact numbers. Such sign must contain the physical address assigned by the Cass County GIS Department.



- L. **Noise:** No component of any LSES shall emit noise exceeding sixty-five (65) dBA as measured at the exterior property boundary or the existing ROW line.
- M. **Lighting:** All 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 and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- N. **Distribution, Transmission and Interconnection:** All collection lines and interconnections from the Solar Array(s) to any electrical substations shall be located and maintained underground inside the LSES, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.
- O. **Decommissioning:** A decommissioning plan shall be required to ensure that the LSES is properly removed after their useful life. Said plan must be filed with the Township Clerk prior to commencement of construction of the LSES. Decommissioning of a LSES must occur in the event the facility is not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil to a depth of 36 inches and vegetation, the time-frame for completion of decommissioning activities, estimated costs, and a plan ensuring financial resources will be available to fully decommission the site. The Township Board may require the posting of a bond from a bonding company approved by the Township or the establishment of an escrow account to ensure and guarantee proper decommissioning, which if required will be posted with the Township Clerk before the issuance of any building or construction permit. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments for scrap and salvage value. The estimate shall be by the engineer for the applicant and shall be subject to approval by the Township Board. If the Township is required to enforce the guarantee or otherwise take legal action to enforce compliance with this paragraph, the Township shall be entitled to recovery of any and all costs, including attorney fees.
1. The surety bond is to remain in place for the length of the leases/contracts and until decommissioning is completed to Township approval.
- P. **General Standards:** The Planning Commission shall not approve any LSES unless it finds that all of the general standards for Conditional Uses or Special Approval

contained in Marcellus Township Ordinances are met.

- Q. **Approval Time Limit and Extension:** Conditional Use or Special Approval and Site Plan approvals, under this Section, shall be valid for two (2) years beginning on the date of Township Board approval. Once commenced, should construction cease for period of twelve (12) consecutive months, the Conditional Use or Special Approval and Site Plan approvals shall be considered null and void. If construction has begun prior to the expiration date established by Township Board approval, the Conditional Use or Special Approval and Site Plan approvals shall remain in force as long as construction continues toward a reasonable date of completion. However, if requested by the Applicant prior to the expiration date established by Township Board approval, the Township Board may consider an additional one-year period upon showing of good cause for the extension.
- R. **Conditions and Modifications:** Any conditions and modifications approved by the Planning Commission or Township Board shall be recorded in the Planning Commissions' meeting minutes.

The Planning Commission or Township Board may, in addition to other reasonable conditions, require reasonable landscaping buffers as provided herein, taking into consideration remaining vegetation and tree stands, walls, fences, ground cover and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts. If visual screening is required, it shall be achieved through vegetation provided along the property lines as follows:

- a. At a rate of at least four (4) trees every one hundred (100) linear feet. Of the four (4) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.
- b. At least two-thirds (2/3), but no more than three-quarters (3/4) of the total ornamental/ evergreen trees along the property line shall be made up of evergreen trees.
- c. Each tree shall have a minimum mature height of fifteen (15) feet.

After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Chairperson of the Planning Commission and Township Board and authorized representative of the Applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the Applicant's authorized repre-

sentative.

- S. **Inspection:** The Township shall have the right at any reasonable time, to provide a twenty-four (24) hour notice prior to the desired inspection to the Applicant to inspect the premises on which any LSES is located. The Township may hire one or more consultants, with approval from the Applicant (which shall not be unreasonably withheld), to assist with inspections at the Applicant's or project owner's expense. Inspections must be coordinated with, and escorted by, the Applicant's operations staff at the LSES to ensure compliance with the Occupational Safety and Health Administration (OSHA), NESC and all other applicable safety guidelines.
- T. **Maintenance and Repair:** Each LSES must be kept and maintained in good repair and condition at all times including the screening vegetation, walls, fences & ground cover. If the Township Zoning Administrator and or Enforcement Officer determines that a LSES fails to meet the requirements of this Ordinance and the Conditional Use or Special Approval, the Zoning Administrator, or his or her designee, shall provide notice to the Applicant. If, after a reasonable cure period (not to exceed 90 days), the condition is not corrected, the Applicant is entitled to a hearing before the Township Board. Applicant shall keep a maintenance log on the Solar Array(s), which shall be available for the Township's review within 48 hours of such request. Applicant shall keep all sites within the LSES neat, clean, and free of refuse, waste or hazardous or unsanitary conditions.
- U. **Roads:** Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a LSES 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 improvements 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.
- V. **Other Requirements:** Each LSES shall also comply with all applicable federal, state and county requirements, in addition to other applicable Township Ordinances.
- W. **Annual Reports:** The LSES shall submit an annual report to the Planning Commission by no later than October 1 of each year. The annual report shall document all complaints received regarding the LSES along with the status of the complaint resolutions and the actions taken to mitigate the complaints. The report shall also include a certification that the estimated decommissioning costs have not changed and that any surety bond is still valid. If said report does not contain such certification, the report shall include an updated cost estimate for decommissioning and proof of a new and updated surety bond.

- X. **Special Approval Land Use Validity & Site Plan Approval for Large Solar Energy Svstems:** The Conditional Use application for a LSES shall include a site plan as described in (B) above. The special approval land use and site plan shall become effective when the application has been approved by the Township Board. The special approval land use shall be valid for as long as the permitted use continues in accordance with the terms stated therein, unless otherwise stated in the special approval land use. The permit holder shall pull a building permit for the proposed site within 24 months of the effective date of the special approval land use and the site plan approval. An extension to pull a building permit may be requested by the applicant to obtain addition time, up to the additional 12 months. The applicant is to provide the Township Zoning Administrator or Enforcement Officer a letter demonstrating good faith effort to exercise the intended use. The request will be taken before the Township Board for action.
- Y. **Deviations:** Deviations from the required standards for a LSES may be addressed through a variance.
- Z. **Annual Fee:** There shall be an ongoing annual fee to the Township of Marcellus that would equal 1 mil of the total taxable value of the first year after the completion of the Solar Project, plus future additions, or expansions and/ or improvements in future years. Whatever portion of State taxes or fees assessed by the State on a large Solar Project, the Solar Company would be responsible to pay and those passed down to the Township shall be subtracted from the ongoing annual fee that would be due the Township of Marcellus. Should the Taxing Authorities calculate taxes on a different basis such as kilowatt/hour, etc., the 1 mil as determined on value of physical assets, shall be considered a payment in lieu of taxes.

This Ordinance replaces any previous Ordinances that are inconsistent with this Ordinance's requirements.

**Planning Commission Motion to Approve** – At a regular Township Planning Commission meeting on October 13, 2021, Northrop made a motion to recommend approval of the proposed Large Solar Energy Systems Ordinance subject to County Planning Commission input. The motion as seconded by Welburn.


Roll Call Vote:    Yea    Northrop  
                         Yea    Bowlby  
                         Yea    Welburn

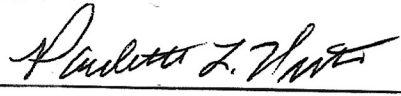
Motion was made by: Koshar and Supported by: Hess

VOICE VOTE:	Yea	Nay	Absent	Abstain
Edward J. Koshar	x	_____	_____	_____
Paulette Hutson	x	_____	_____	_____
Matthew Schick	x	_____	_____	_____
LeeAnn Mroz	x	_____	_____	_____
Donald A. Hess, Jr.	x	_____	_____	_____

### **Certification**

This Ordinance was adopted by the Marcellus Township Board of Trustees, Cass County, Michigan at a regular meeting on the 15th day of March, 2022 and was published in the Marcellus News on 24th day of March, 2022. This Ordinance is effective immediately on the day of publication.

  
Edward J. Koshar  
Marcellus Township Supervisor

  
Paulette Hutson  
Marcellus Township Clerk