

MUSSEY TOWNSHIP – ST. CLAIR COUNTY

ARTICLE IX

GENERAL PROVISIONS

ORDINANCE #45

SMALL PERSONAL SCALE SOLAR AND UTILITY SCALE SOLAR ENERGY

FACILITIES:

Intent, Purpose and Objectives:

1. To establish guidelines for the construction and usage of Small Personal Scale Solar Energy Facilities.
2. To establish standards for the location, siting, installation, operation, repair, decommissioning and removal of Utility Scale Solar Energy Facilities that provide a demonstrated need for energy production in general and solar energy production in particular in the Township of Mussey, while minimizing any adverse impacts to the esthetic quality of the landscape, the physical integrity of the environment and ensuring compatibility with the land uses in the vicinity of the area affected by such facilities.
3. To establish a process for the reviewing and permitting of facilities in a manner that preserves and protects the health, welfare, safety and quality of life for the citizens of Mussey Township, while safeguarding and enhancing the economic viability and interests of the residents of Mussey Township who have made substantial financial investments in homes, farms, businesses and industry.
4. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provision of local, state or federal law.

Definitions:

Solar Energy: Shall mean radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

Solar Energy Facility (SEF): Shall mean an energy facility, and area of land, or a structural roof top, principally used to convert solar energy into electricity which includes, but is not limited to, solar collectors and ancillary equipment, either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar energy facilities include but are not limited to, photovoltaic (PV) power facilities and solar thermal facilities.

- a) **Small Personal Scale SEF(S):** Shall mean a solar energy system that is accessory to the principal use of site. The total surface area of all solar collector surfaces within a

small solar energy system shall not exceed fifteen hundred (1500) square feet or 20kw. The sale and distribution of excess available energy, if permitted to an authorized state licensed public utility for distribution shall be incidental to this type of system and not its primary purpose. Sale of excess energy to anything other than an authorized state public utility shall be prohibited.

- b) **Utility Scale SEF(S):** shall mean a solar facility that meets one or more of the following:
- a. It's primarily used for generating electricity for sale and distribution to an authorized state licensed public utility.
 - b. The total surface of all solar collector surfaces exceeds fifteen hundred (1500) square feet or 20kw and is not an accessory to a principal structure on site.

A. GENERAL REQUIREMENTS

All solar energy facilities are subject to the following general requirements:

1. LOCAL, STATE COUNTY AND FEDERAL PERMITS. All Solar Energy Facilities shall be required to obtain all necessary permits.
2. Solar Energy Facilities shall be located or placed so that the concentrated solar glare shall not be directed towards or onto nearby properties, roadways or airway flight paths at any time of the day.
3. AGREEMENTS/EASEMENTS. If the zoning Lot on which the project is proposed is to be leased, rather than owned by the owner of the Utility Scale SEF, all property within the project boundary must be included in the recorded easement(s), lease(s) or consent agreement(s) specifying the applicable uses for the duration of the project and must be in place prior to commencing construction.
4. Power generated to be used locally.

B. STANDARDS FOR SMALL PERSONAL SCALE SEF(S)

1. **General Requirements for Small Personal Scale SEF(S):** Small personal scale SEF(S) shall be permitted by zoning districts. A building permit shall be required for the installations of any small personal scale SEF.
 - a. Shall be an accessory to the principal use of the site.
 - b. The total surface area of all solar collector surfaces within a small personal scale SEF shall not exceed fifteen hundred (1500) square feet or 20kw.
 - c. The sale of any excess available energy, if permitted to an authorized state licensed public utility shall be incidental to small personal scale SEF(S) and not its primary purpose.
 - d. Sale of excess energy to anything other than an authorized state licensed public utility shall be prohibited.
 - e. Solar glare shall not be directed onto nearby properties.

2. **Roof or Building Mounted Small Personal Scale SEF(S):** Roof or building mounted small personal scale SEF(S) shall be considered an accessory used in all zoning districts, subject to the following requirements:
 - a. No part of a small personal scale solar SEF erected on a roof shall extend beyond the peak of the roof. If the small personal scale SEF is mounted on a building in an area other than the roof, no part of the small personal scale SEF shall extend beyond the wall that it is mounted on.
 - b. No part of a small personal scale SEF mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, eave, or valley in order to maintain pathways for accessibility.
 - c. No part of a small personal scale SEF mounted on a roof shall extend more than two (2) feet above the surface of the roof.
 - d. A building permit is required.
 - e. In the event that a roof or building mounted small personal scale SEF has been abandoned, the property owner shall notify the township and shall remove the system within 6 months from the date of the abandonment.

3. **Ground Mounted Small Personal Scale SEF(s):** Ground mounted small personal scale SEFs shall be considered an accessory use in all zoning districts, subject to the following requirements:
 - a. Prior to the installation of a ground mounted small personal scale SEF the property owner shall submit a site plan to the zoning administrator. The site plan shall include setbacks, panel size, and location of the property lines, buildings, fences, green belts, and road rights of ways. The site plan must be drawn to scale.
 - b. A ground mounted small personal scale SEF shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted small personal scale SEF exceed fifteen (15) feet above the ground when oriented at a maximum tilt.
 - c. A ground mounted small personal scale SEF shall be located in the rear or side yard and shall meet building setbacks in both rear and side yards in the underlying zoning district.
 - d. All power transmission or other lines, wires or conduits from ground mounted small personal scale SEFs to any building or other structures shall be located underground.
 - e. In the event that a ground mounted small personal scale SEF has been abandoned, the property owner shall notify the township and shall remove the system within 6 months from the date of abandonment.
 - f. A building permit is required.

C. STANDARDS FOR UTILITY SCALE SEF(S)

Utility scale SEF(S) shall be permitted by a special land use in the AG Agricultural district only, subject to the following standards, in addition to any other requirements for special land use approval:

1. **Ground Mounted:** Utility Scale SEF(S) shall be ground mounted.
2. **Setbacks:**
 - a) Front Yard: Utility Scale solar energy facilities shall be set back at least five hundred (500) feet from the road right away.
 - b) Each side yard and rear yard setback shall be a minimum of five hundred (500) feet from the property line if adjacent to a non-residential property.
 - c) Each side yard and rear yard setback shall be five hundred (500) feet from the property line if the system is located next to a residential property.
 - d) Each setback from drains, rivers and flood zones shall be five hundred (500) feet.
3. **Maximum Height:** The maximum height for a solar panel shall be fifteen (15) feet when oriented at maximum tilt. The heights of all buildings and accessory structures shall comply with the maximum building height requirements of the applicable zoning district in which the Utility Scale SEF is located. The height of required lightning rods attached to the Utility Scale SEF related to equipment shall not be subject to the foregoing height limitations. The heights of lightning rods shall be limited to that height necessary to protect the Utility Scale SEF equipment from lightning.
4. **Lot Considerations:**
 - a) Minimum lot area for a utility scale solar energy facility shall be twenty (20) acres.
 - b) The site must consist of a single participating property.
5. **Lighting:** Site lighting shall meet the performance standards of the Mussey Township Zoning Ordinance. Lighting shall be limited to that required for safety and operational purposes, and shall be directed downward and shielded from abutting properties. Motion activated lighting shall be required for control house, gate and inverters during non-daylight hours. Motion activated security system shall be required, in no cases shall illumination from such lighting extend beyond the perimeter.
6. **Signage:** Signs shall comply with the requirements described in the Mussey Township zoning ordinance. An information sign shall be posted and maintained at all entrances, listing the name and phone number of the operator, emergency contact information and complaint resolution information. The Township may require additional signs with this information on the fence surrounding the compound. Advertising or non-project related graphics of any kind shall be prohibited.
7. **Warning Signage:** Signs warning of the high voltage associated with the Utility Scale SEF shall be posted at every entrance to the facility, at the base of all pad mounted transformers and substations. A sign that provides emergency contact information, such as phone number, shall be posted near the transformers and the operations and maintenance building. Knox boxes and keys shall be provided a locked entrances for emergency personnel access. Additionally, a sign shall be posted at every entrance

containing the following information: emergency contact, emergency phone number, and emergency shutdown procedures. The utility company is responsible to provide Knox box information to responders.

8. **Screening:** Front, side, and rear yard screening shall be required as determined by the planning commission to address specific site needs at the time of the site plan review. Solar panels shall be placed such that concentrated radiation or solar glare shall not be directed onto nearby properties or roadways. When deemed appropriate, the planning commission may require a report from a registered civil engineer or other professionals (picked by the Township and paid for by the Utility Scale SEF) to address this issue.
9. **Landscaping:**
 - a) **Buffers:** The Utility Scale SEF buffers shall be installed and designed to obscure the facility by using materials, colors, textures, screening, and landscaping that will blend into the natural setting and existing environment.
 - i. Utility Scale SEF(S) shall have a minimum landscape buffer of twenty (20) feet along the exterior of the fenced installation, whenever existing natural vegetation does not otherwise reasonably obscure the Utility Scale SEF as described below:
 1. The buffer shall contain a berm (constructed from topsoil moved during clearing of site) that is of at least the height of the highest point of the utility scale SEF and accessory structures from view from adjacent properties and the road right-of-way. The berm shall contain two (2) rows of staggered evergreen trees planted not less than twelve (12) feet apart trunk to trunk (right to left) with the two (2) rows of staggered evergreen trees planted not less than ten (10) feet apart. Plantings shall be at least six (6) feet tall at time of planting, measured from the top of the root ball to the base of the leader (not including the height of the leader) and must be Norway Spruce in Row One (closest to the fence) with Row Two consisting of Thuja Green Giant Arborvitae.
 2. The berm shall be supplemented with ground vegetation such as grasses and perennials such as butterfly weed, catmint, cheddar pinks and sedum yarrow.
10. **Maintenance:** Owner, operator, or maintainer of the Utility Scale SEF shall utilize good husbandry techniques with respect to such vegetation as defined above, including but not limited to proper pruning, fertilization and mulching. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time, not to exceed six (6) months. Plants or grasses not part of the landscaping shall be maintained by the facility operator not to exceed 12 inches in height.
11. **Site Clearing:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the installation. No topsoil shall be removed from the construction site. No more than two (2) inches of top soil shall be

moved from the original landscape. Other items such as lumber, stones, etc. may be removed upon written consent of the Mussey Township planning commission.

12. Fencing/Screening: A Utility Scale SEF shall be completely surrounded by a fence designed to restrict unauthorized access and screen the facility.

- a) Fencing shall comply with applicable setbacks.
- b) The fence shall be at least six (6) feet tall and posts shall extend at least forty-two (42) inches into the ground. Gate and corner posts shall have a concrete foundation.
- c) The fence should be a woven style fence. The Township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.
- d) Gates shall be the same height, constructed of the same material as the fencing, provided at all access points and shall be approved by the fire authority(s). Access, such as Knox Box shall be provided for the emergency responders.
- e) The Township may require or allow a fence design to allow for the passage of wildlife upon finding that adequate access control and visual screening will be preserved.
- f) All equipment, structures and improved areas located within the fenced compound shall be at least one hundred fifty (150) feet from the fence line. Solar energy systems and related accessory structures, such as transformers shall be at least one hundred fifty (150) feet from the road rights-of-way, wetlands, lakes, rivers and river conservation areas and five (500) feet away from non-participating residential dwellings, churches or religious institutions schools, family or group child day homes, bed and breakfast establishments, residential facilities, and other residence or inhabited structures.

13. Noise Mitigation/ Sound Pressure Level: The noise generated by a Utility Scale SEF must not exceed the following limits:

- a) Transformers and Inverters shall be located in the center of the site to help mitigate noise heard at the property lines.
- b) Forty (40) Dba (Lmax) as measured at the property line boundary closest to the Utility Scale SEF between the hours of 7:01am till 8:59pm, with a maximum of Thirty-Five (35) Dba (Lmax), as measured at the property line between the hours of 9:00pm and 7:00am.
- c) The noise level by a Utility Scale SEF must be inspected every two (2) years, at the operator's expense, by an auditory expert picked by the Township to ensure compliance with these noise requirements.
- d) A sound barrier of a solid decorative masonry wall or an evergreen tree berm must be placed around all inverters. If an evergreen berm is used, the berm must be no more than ten (10) feet from all inverters, must be at least as tall as the inverters, with Arborvitae trees spaced not less than ten (10) feet apart.

14. **Medium Voltage Cable:** All medium voltage cable within the project boundary shall be installed underground at a depth of at least six (6) feet below grade, unless determined otherwise by the planning commission because of severe environmental constraints (i.e. wetland, cliffs, hard bedrock). All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.
15. **Electrical Interference and Stray Voltage:** All collection system wiring shall comply with all applicable safety and stray voltage standards. If the Utility Scale SEF produce electromagnetic interference with any signal transmission or reception (i.e. broadcast, retransmission, antennae reception, GPS, personal communication systems, radio, television, wireless systems, public safety agencies, satellite & towers etc.), the operator must provide a replacement signal to the affected party that will immediately restore reception to at least the level present before operation. The owner of the Utility Scale SEF shall be responsible for compensation to residents for all property, including but not limited to livestock, health related or other damage by stray voltage caused by the Utility Scale SEF.
16. **Battery Storage:** Utility Scale SEF(S) shall **NOT** have any on-site battery storage systems of any kind for the sale of stored energy.
17. **Ground Cover (Inside Facility):** Utility Scale SEF(S) shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of the operation until the decommissioning of the site.
 - a) Land enrolled or bound by the Farmland Preservation Program must follow Michigan Department of Agriculture and Rural Development (MDARD) Policy for allowing commercial Solar Panel Development on PA 116 Lands.
 - b) Land not enrolled in PA 116 must provide at least one (1) of the following types of dual use ground cover to promote ecological benefits.
 - i. Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for solar sites.
 - ii. Incorporation of rotational livestock grazing and forage production as a part of overall vegetative maintenance plan.
 - iii. Raising crops for food or fuel and generating.
 - iv. All ground cover must be native plants with substantial root systems to support soil. Turf grass is not permitted as ground cover. Invasive and noxious weeds are not permitted and must be removed in a timely manner.
18. **Complaint Resolution:** Utility Scale SEF(S) shall provide a complaint resolution process, as described below:
 - a) The site shall have signs posted with contact information to collect complaints related to the facility.
 - b) A log shall be kept by the owner/operator of all complaints received and shall be available to the Township officials for review if requested.

- c) The operator or its agent shall respond to complaints within ten (10) business days and shall provide notification to the zoning administrator.
 - d) Any resolution shall include lawful and reasonable solutions consistent with the zoning ordinance.
 - e) The operator or its assigns reserves the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction. An Annual report shall be submitted to the zoning administrator and the Township board that details all complaints received, the status of Complaint resolution and actions taken to mitigate complaints.
19. **Abandonment:** Any Utility Scale SEF that is not used to produce energy for a period of six (6) consecutive months shall be deemed to be abandoned and shall promptly be dismantled and removed from the property in accordance with the decommissioning regulations of this ordinance.
- a) Solar energy systems that are damaged shall be replaced or removed within seven (7) days.
 - b) The ground must be restored to its original topography within sixty (60) days of abandonment or decommissioning.
 - c) All decommissioning and land restoration is to be paid for by the solely by the utility scale SEF (which would supersede any lease agreement with an individual land owner). An alternate topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.
 - d) If land balancing is required, all top soil will be saved and spread evenly over the area to be balanced.
 - e) An annual report shall be provided to the zoning administrator showing continuity of operation and shall notify the zoning administrator if use is to cease, prior to decommissioning or abandonment.
20. **Continuing Obligations:** Failure to keep any required financial security in full force and effect at all times while a Utility Scale SEF exists or is in place shall constitute a material and significant violation of the Special Land Use, Special Use Permit and this ordinance and will subject the Utility Scale SEF applicant, owner and operator, jointly and severally to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief and revocation of the Special Land Use permit.
- a) The applicant is responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.
21. **Special Use Application Requirements:** The following items must accompany any request for a Special Land Use Permit for a Utility Scale SEF:
- a) The appropriate fee must be paid per the Township fee schedule, along with the appropriate number of copies of a complete site plan and all additional information listed to be submitted to the Township Clerk.

- b) Applicant Identification: Name, address in full, a statement that the applicant is the property owner involved in the application, legal parcel number(s) and description, contact information and a general description of the proposed project.
- c) Proof of the general liability insurance to cover the Utility Scale SEF and indemnify the Township. Along with an attestation that the Utility Scale SEF will not hold the Township liable for any costs or liability arising from the approval, installation, construction, use, maintenance, repair or decommission of the Utility Scale SEF.
 - i. The owner of the Utility Scale SEF shall maintain a current General liability policy covering bodily injury and property damage and name Mussey Township as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than five thousand dollars (\$5,000). This policy must cover natural disasters and acts of God. Proof of current policy coverage must be provided to the Township annually.
- d) **Certifications:** Certification that an applicant will comply with all applicable state and federal laws and regulations. Land enrolled in the Michigan Farmland Preservation Program must provide confirmation of approval from the Michigan Department of Agriculture to locate a Utility Scale SEF on the property, along with proof the State of Michigan Surety Bond for PA 116 land has been set-up before issuance of a certificate of zoning compliance can be issued.
- e) Compliance with the County Building Code and the National Electrical Safety Code, in the event there is a conflict the NESC shall prevail.
- f) **PV Array Components:** PV array components shall be approved by the institute of Electrical and Electronics Engineers (EEE), Solar Rating and Certification Corporation (SRCC), International Electrotechnical Commission (IEC), or other similar certification Organizations if the similar certification organization is acceptable to the Township.
- g) **Water:** A copy of water acquisition plan, water reclamation plan and disposal plans.
 - i. Applicant must provide a plan for the acquisition, reclamation and disposal of any water at the Utility Scale SEF site that is used in the operation of the system.
 - ii. A water usage or impact study shall be completed that will indicate any impact the Utility Scale SEF will have on the Township's resources. Study shall be done by a third-party expert acceptable to the Township and shall be paid for by the applicant.
 - iii. The reclamation plan shall provide for an escrow account of two and one half (2.5) times the price to bring city water to the Township homes in the

event the ground water becomes contaminated as a result of the Utility Scale SEF.

- iv. The drainage disposal plan must include erosion control.
 - v. At no time shall the local water table levels (wells, etc....) be affected. If there is evidence of well level changes and/or contamination the Utility Scale SEF must cease operations until the problem is corrected and remediation has occurred.
 - vi. The Planning Commission may require a study and a consultation with EGLE.
- h) **Drainage:** Drainage tiles must be a part of the water management system, unless approved otherwise by the planning commission:
- i. All drainage tiles already in existence (to be utilized in project) must be inspected by a robotic camera and the imagery submitted to the Township for baseline documentation on tile condition. Any damage to tile system must be repaired prior to start-up of installation. While the facility is in operation, the owner/operator must reinspect the drain tiles every two (2) years by robotic camera for damage, repairs must be made within sixty (60) days of discovery. The owner/operator must report the inspection, along with damage repair, to the township within ninety (90) days after each two (2) year deadline. The Township reserves the right to have the building inspector or other agent present at the time of the repairs.
- i) **Environmental:** Copy of Environmental Impact Analysis.
- i. Applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental protection Act (Act 451 of 1994, MCL 324.101 et seq.) Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL324030301 et seq.)
 - ii. The Utility Scale SEF owner/operator shall be responsible entirely for mitigating erosion, flooding and all other environmental impacts resulting from the Utility Scale SEF.
- j) **Wildlife Impact:** Copy of the Wildlife Impact Analysis.
- i. The applicant shall have a third-party qualified professional, approved by the commission, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take the appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis.
- k) **Manufacturer's Safety Data Sheet(s):** Documentation shall include the type and quality of all materials used in the operation of equipment.
- i. An unredacted copy of the manufacturer's safety manual for each component of the Utility Scale SEF to be kept at the Fire Department(s)

under contract to the Township. The manual should include standard details for an industrial site such as materials, chemicals, fire, access and safe distances during a Solar Farm failure, processes in emergencies, etc.

- l) **Emergency Action Plan:** Copy of a plan for the actions to be taken in the event of an emergency. The emergency action plan must include a fire suppression plan, including the technology to be used, the training and equipment to be provided to the Fire department(s) contracted by the Township before the facility is operational. The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.
- m) **Hazardous Waste:** The applicant must include procedural plans for the removal and clean-up of any damaged or non-working panels that have to be removed and disposed for any reason during construction and operation of the facility, in addition to the plans for soil testing and remediation after a breakage event.
- n) **Copy of Complaint Resolution Protocol**
- o) **Decommissioning Plan:** Copy of the complete decommissioning plan.
 - i. The applicant shall engage a certified professional engineer acceptable to the Township to estimate the total cost of decommissioning the structure in accordance to this ordinance, including reclamation to the original site conditions. The cost of decommissioning shall be reviewed between the operator and the Township Board every two (2) years to ensure adequate funds are allocated for decommissioning, the security bond or escrow defined herein, shall be appropriately adjusted to reflect the then current decommissioning estimate.
 - ii. All ground materials, above and below the surface, shall be removed when the Utility Scale SEF is decommissioned.
 - iii. The ground shall be restored to its original condition within 60 days of removal of the structures. Acceptable ground covers include grasses, trees, crops or other material demonstrated to be characteristic of the surrounding land.
 - iv. In the event that the Utility Scale SEF owner fails to comply with the decommissioning requirements of the ordinance, the Township may upon thirty (30) days written notice to the Utility Scale SEF owner, utilize the security bond or escrow listed in this ordinance to complete the decommissioning process.
 - v. Hazardous materials removed from the property must be disposed of in accordance with federal, state and local laws.
- p) **Site Plan Requirements:** shall be submitted showing the location, size and screening of all building and structures. The site plan shall include the following:
 - i. Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property and vehicular access.

- ii. The location, approximate height, and dimensions of all existing structures, existing parcel drainage tile layouts, water bodies, waterways, floodplains, conservation areas, landscaping, and fencing on the parcel(s) planned for Utility Scale SEF installation including other parcels within one-quarter (1/4) mile of the project boundaries, setbacks and location of property lines.
- iii. Entire solar panel system, all equipment, buildings, accessory structures, landscaping and fencing.
- iv. Lighting plan
- v. Plan(s) showing the location of the proposed Utility Scale SEF, underground and overhead wiring (including the depth of underground wiring), the drainage facilities (if any), access drives (including width), substations and accessory structures.
- vi. A map depicting topographical grades and conditions of the planned Solar Energy parcel(s) or lots at time of application.
- vii. Proof that the applicant and/or its contractor has informed the St. Clair County Road Commission (SCRC) and the Township of all the roads they propose to use as haul routes to the construction site (including repair and decommissioning routes). This shall be done prior to beginning any construction (or decommissioning). A third-party road inspector may be requested, with mutual approval of the Township, the applicant and the SCRC (or MDOT) if a state highway is involved. The road inspector would determine any precautions to be taken (including videotaping and physical inspections) during the process to determine any damage that may be caused by the applicant's contractor(s), and then determine the appropriate road standards and measures to be taken to repair the damage. The cost of the third-party road inspector and/or any other third-party assistance, all repairs necessitated to restore the roads, drains, culverts and infrastructure damaged (and related property which may have been damaged by the contractor(s), shall be the responsibility of the applicant and/or their contractor(s), and shall in no case be the responsibility of the Township.
- viii. Anticipated construction schedule, phasing of construction and the anticipated useful life of the Utility Scale SEF.
- ix. Plan for dust control during construction and decommission phases.
- x. Description of operations, including anticipated regular and unscheduled maintenance and the hours of maintenance will take place.
- xi. The applicant must also obtain a permit from the SCRC or MDOT for permission to connect access roads to existing County Roads and from the St Clair County Drain Commission for any culverts or other drainage facilities they will be adding.

- xii. Direct access from a public road with a maximum length of one thousand two hundred fifty (1250) feet and a width of at least thirty-three (33) feet. Access drives shall have a hard surface or material that can pack hard, making it sufficient to support fire apparatus and provide access at all times of the year. The applicant is responsible for maintenance of the access road(s).
- xiii. Proof of approval from both the St Clair County Road and Drain Commissions.
- xiv. Any other relevant studies, reports, certificates or approvals as may be reasonable required by the Planning Commission.
- xv. An affidavit or evidence of an agreement between the lot owner or operator confirming the owner/operator has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the Utility Scale SEF.
- xvi. A copy of the power purchase agreement or other written agreement with the utility company that will be purchasing electricity from the proposed site.
- xvii. A complete description of the proposed technology to include type of solar panels and system, maximum height, fixed mounted versus tracking, number and size of panels, angles and orientation and other related information.
- xviii. An escrow deposit shall be provided to the Township in an amount included in the Township's Annual Fee Schedule.
- xix. A complete set of photos and video of the entire development area prior to construction.
- xx. **Airport Review:** Any solar energy system must be reviewed using the current Solar Glare Hazard Analysis Tool (SGHAT) available through Sandia National Laboratories or a commercially available equivalent. The SGHAT will be used to ensure that any airports (airstrips/fields) and those who use them will not be affected by unwanted visual or ocular impacts. The study shall determine if there are any potential adverse effects on any registered airfield with ten (10) miles of the project.
 - 1. In addition, the applicant must obtain a Determination of NO Hazard (DNH) from the Federal Aviation Administration (FAA). A DNH does not eliminate the need for the SGHAT study, nor does it in any way eliminate the standard for glare on roadways or non-participating parcels.
 - 2. The DNH must be obtained prior to breaking ground on any portion of the installation.
 - 3. No solar energy system that impacts safety or utility of any registered airfield shall be permitted.

- q) **Application Fee:** Review fees shall be submitted for a Special Land Use Permit application, site plan review, and required escrow fee to the Township in the amount specified in the fee schedule adopted by the Board of Trustees. This shall include, but not be limited to an independent review by experts, as deemed necessary by the Planning Commission.
- r) The Township shall have the right upon issuing any Special Land Use Permit to inspect the premises of the Utility Scale SEF at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged and paid to the operator of the Utility Scale SEF.
- s) Site Prep, clearing of land or construction in any way shall not begin until the site plan has been approved by the Mussey Township Planning Commission and a Special Land Use Permit has been issued. In addition, all required County, State and Federal Permits must be obtained before the construction in any way may begin.

22. **Modifications or Repowering:** Any modifications of an approved site plan that are made after the initial date of approval, including an expansion of the project, shall be resubmitted to the Township Planning Commission for review at an additional fee based upon the current fee schedule. Any changes of the approved site plan, subject to this ordinance as it exists at the time of application, will require a new site plan application, reviews and fee (this includes reconfiguration of arrays, updating current technology, and Utility Scale SEF infrastructure).

23. **Transfer of Sale:**

- a) In the event of a transfer or sale of the Utility Scale SEF, the new owner or operator must notify the Township within thirty (30) days, public hearing.
- b) Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively.
- c) Any proposed changes to the operating procedure or approved site plan constitute an amendment to the special land use permit and must be resubmitted to the Township review according to the procedures for all Utility Scale SEF(s) as outlined herein, including a public hearing.
- d) Upon transfer or sale, the security bond or escrow shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond or escrow adjusted as necessary to account for the new estimate.

24. **Abandonment and Decommissioning:** Following the operational life of the project, the applicant shall perform decommissioning and removal of the Utility Scale SEF and all of its components, along with restoring the site to its original conditions.

- a) The decommissioning plan shall be written to provide security bond or escrow to the Township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, equipment, structures and restoration of the land to its original condition. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and

paid for by the Utility Scale SEF. The decommissioning security bond or escrow shall be paid in cash to the Township. Once value of decommissioning is determined, it shall be updated on a periodic basis of not less than every three (3) years and additional security may be required on the basis of the average inflation rate of the preceding two (2) years.

- b) All abandonment and decommissioning work must be done with the soil is dry or frozen to prevent compaction.

25. General Liability Bonding/Escrow Requirements:

- a) Utility Scale SEF(s) shall have and maintain a general liability insurance of at least ten million (\$10,000,000) dollars.
- b) In addition, in order to assure the funds will be available to perform all road repairs required under this ordinance, the applicant will be required to post a financial security acceptable to the Township, in the form of a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury or an escrow account established in a financial institution licensed in the State of Michigan. The amount of the security shall be a minimum of one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The bond or escrow shall only be released (in whole or part) when the Township Board, in consultation with the SCRC and the third-party inspector determines that all required road and or repair work has been completed and approved by the SCRC and/or MDOT.
- c) **General Maintenance Bond:** The Township shall require a General Maintenance Bond to guarantee all aspects of this ordinance are met at all times during the construction and operation of the Utility Scale SEF. At the time of the Special Use Application, the applicant shall submit two (2) third-party contractor bids for the construction of all fencing, landscaping and drainage improvements associated with the facility, the bond shall be made for the higher of the two (2) bids. The Township may use the bond to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this ordinance in the event that the Utility Scale SEF fails to adequately maintain the required site improvements, or fails to make operational changes to correct an operational violation.
- d) The applicant shall be required, as a condition of the operation, to fund an escrow account for investigation of complaints for, but not limited to glare, stray voltage, noise and signal interference in the amount of fifteen (\$15,000) dollars to be used at the discretion of the Township Board to pay for third-party investigative services, the provider of which shall be chosen by the Township. Such funds shall be deposited with the Township Treasurer.

- e) The applicant shall be required, as a condition of operation to fund an escrow account for the amount of two and one half (2.5) times the price to bring city water to the Township homes and businesses in the event of a ground water contamination issue or a water table disruption event specifically due to the operation of the Utility Scale SEF. Such funds shall be deposited with the Township Treasurer.
- f) Any bonding company or lending institution shall provide the Township ninety (90) day notice of the expiration of the security bond or escrow. Lapse of a valid security bond or escrow is grounds for the Township to take any action permitted by law, revoke the Special Land Use, order a cessation of operations and other removal of the structure(s) and reclamation of the site.

D. ENFORCEMENT AND PENALTIES: Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the following penalties:

- a. Violations shall be a misdemeanor punishable upon conviction by a fine not to exceed five hundred (\$500) dollars or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both fine and imprisonment. Each day the violation exists shall constitute a separate offense. In addition to the foregoing penalties, anyone convicted of violating this ordinance under this provision shall be assessed the cost of prosecuting, including attorney fees, incurred by the Township.
- b. If an applicant or operator fails to comply with this ordinance the Township, in addition to any other remedy may revoke the Special Land Use Permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard.

E. VALIDITY: If any clause, sentence, paragraph or part of this ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder of this ordinance.

ADOPTION: Made and passed by the Township Board of Trustees of the Township of Mussey, St. Clair County, Michigan, on this 27th day of June, 2024 A.D.

1. Date of Public Hearing: May 14th, 2024
2. Date of adoption by Township Board: June 27th, 2024
3. Date of publication: July 10th, 2024
4. Date Ordinance shall take effect: 15 days after publication

CERTIFICATION: I Sheila McDonald, Clerk of the Township of Mussey, do hereby certify that Ordinance #45 was adopted by the Township Board at a special meeting of the Township Board held at the Mussey Township Hall on the 27th day of June, 2024.

Vote on the said Ordinance, 3 members being present, was as follow:

AYES: Standel, McDonald & Lewis

NAYS: None

Absent: Humphrey & Downey

I further certify that said Ordinance #45 adopted by the Township Board on the 27th day of June, 2024 was published once in the Tri-City Times, a paper published and circulated in the Township of Mussey, County of St. Clair, on the 10th day of July, 2024 this being the first and final day of publication of this Ordinance.