

Draft Special Meeting Agenda

Draft Special Meeting Agenda

Conway Township Board of Trustees Meeting Agenda

Date: 07-9-2024

Time: 7:00PM

Location: Conway Township Hall

- 1) **Call Meeting To Order**
- 2) **Pledge Of Allegiance**
- 3) **Take Attendance and Members Sign In**
 - a. Board Members, please also sign in on the sign in sheet. Thank you.
- 4) **Motion For the Following Additions and/or Changes To The Agenda**
- 5) **Motion For The Approval Of The 07-9-2024 Board Meeting Agenda**
- 6) **First Call To The Public**
 - a. This is a time for anyone from the public to speak regarding items on the agenda.
- 7) **New Business**
 - a. Resolution 240709-1 Battery Storage Ordinance
 - b. Resolution 240709-2 Solar Ordinance Amendment
 - c. Resolution 240709-3 Wind Ordinance Amendment
 - d. Notice of Adoption
- 8) **Board Member Discussion**
- 9) **Next Meeting:**
 - a. Date: 07-16-2024
 - i. The meeting will start at 7pm at Conway Township Hall (unless noted otherwise)
- 10) **Meeting Adjournment**

CONWAY TOWNSHIP POLICY No. 7

PUBLIC COMMENT AND CONDUCT POLICY

Conway Township Board recognizes its obligation to obtain and the benefits to be received from public comments on matters pending before the Board. To provide an orderly and efficient manner to obtain public comment and to provide the public with an opportunity to participate in public meetings, the Conway Township Board hereby adopts the following policy for public comment and conduct at public meetings:

1. Public comment is restricted to only those times designated for public comment on the agenda, unless permitted otherwise by the chairperson or a majority of the Board. All persons addressing the Board shall comment only after being recognized by the chairperson conducting the meeting.
2. No individual speaker shall be permitted to speak more than 3 minutes regardless of topic and no time may be transferred or assigned by others to the speaker as to extend the 3-minute time limit. At the discretion of the chairperson, a speaker may be allowed to comment further than the three-minute limit. Alternatively, the chairperson may direct the speaker to submit further comment to the Board in writing at a later date.
3. When recognized by the chairperson to speak, the individual recognized shall approach and speak from the podium or location designated by the chairperson and shall not deviate from the location. When the speaker is advised by the chairperson to stop speaking when time has expired, the speaker shall cease speaking and be seated.
4. Prior to addressing the Board, each speaker shall first state for the record the speaker's name and address, the subject on which the speaker will speak, and state whether the speaker represents an organization or other person, and identify such organization or person. All remarks shall be addressed to the Board as a whole and not to any member thereof specifically or any other member of the public. Public comment is not intended to require Board members or Township staff to provide any answer to the speaker. Discussions between speakers and members of the audience will not be permitted.
5. Only one speaker will be acknowledged at a time. In the event that a group of more than three persons supporting or opposing the same position desires to be heard, in the interest of time, a spokesperson may be designated to express the group's concern and the spokesperson may be allotted up to 10 minutes to speak.
6. Public comments must be presented in a respectful manner and participants shall conduct themselves in an orderly and civil manner. Comments or language of a lewd, insulting, or provocative nature shall not be permitted. No person shall disrupt the Board and/or partake in behavior that becomes hostile, argumentative or threatens the public or an individual's safety, or is disruptive to the meeting. No person shall utilize any profane or obscene speech or gesture.
7. Violation of any provision of this policy shall be deemed a breach of the peace and such person will be asked to leave. If the person being asked to leave does not voluntarily leave or cease the behavior, the person may be ejected, and law enforcement may be called to remove the person.
8. Any person shall have the right to tape record, videotape or broadcast the proceedings of the Township Board, but shall not utilize the electric outlets of the Township without prior permission of the Township Clerk. Any tape recording, video camera or other camera utilized by any such person, shall be kept at least ten feet from all members of the Board and shall not be placed behind them.

This policy may be adopted for use by other boards, commissions, and committees of the Township. This policy or a summary of it may be placed on the back of the meeting agenda or made available with the meeting agenda.

CONWAY TOWNSHIP

RESOLUTION NO. 240709-1

**AN ORDINANCE TO ADOPT A ZONING ORDINANCE
TO REGULATE UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS**

At a special meeting of the Township Board for the Township of Conway, Livingston County, Michigan, held on the 9th day of July, 2024, at 7:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____
and seconded by _____.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, the Conway Township Board (“Township Board”) has adopted such a zoning ordinance (“Zoning Ordinance”); and

WHEREAS, the Township Board desires to adopt a Zoning Ordinance’s to regulate utility-scale battery energy storage systems in the Township; and

WHEREAS, the Conway Township Planning Commission (“Planning Commission”) held a duly noticed public hearing on June 27, 2024 to consider the adoption to the Zoning Ordinance regarding utility-scale battery energy storage systems (“Proposed Amendments”); and

WHEREAS, the Planning Commission recommended adoption of the Proposed Amendments to the Township Board; and

WHEREAS, the Livingston County Planning Commission reviewed the Proposed Amendments at a meeting on July 9, 2024, and provided comments to the Township Board; and

WHEREAS, the Township Board finds the Proposed Amendments promote the public health, safety, and welfare; and

WHEREAS, the Township Board now desires to adopt the Proposed Amendments.

NOW, THEREFORE, the Conway Township Board resolves as follows:

1. Ordinance No. 240709-1, An Ordinance to Adopt a Zoning Ordinance to Regulate Utility-Scale Battery Energy Storage Systems (the “Ordinance”), attached as **Exhibit A**, is hereby adopted.
2. The Ordinance will be filed with the Township Clerk.
3. The Township Clerk is to publish notice of adoption of the Ordinance in a newspaper of general circulation in the Township.
4. Any resolutions that conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

A vote on the above Resolution was taken and was as follows:

ADOPTED:

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
) ss.
 COUNTY OF LIVINGSTON)

I, the undersigned, the duly qualified and acting Clerk for Conway Township, Livingston County, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a meeting held on the 9th day of July, 2024.

Rachel Kreeger, Township Clerk

EXHIBIT A

CONWAY TOWNSHIP

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO REGULATE UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS**

Conway Township ordains:

Section 1. Add New Section 6.27 to the Zoning Ordinance

The Zoning Ordinance to adopted to add new Section 6.27, “Battery Energy Storage Systems,” which read as follows in its entirety:

Section 6.27, Battery Energy Storage Systems

A. Definitions

1. *Battery management system*: An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.
2. *Utility-scale battery energy storage facilities*: One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").
3. *Utility-scale battery energy storage system*: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

B. General Provisions

All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

1. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems.”
2. The Township may enforce any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law if the Utility-Scale Battery Energy Storage System does not comply with this Ordinance.

3. Utility-Scale Battery Energy Storage Systems are permitted in the Township only as a special land use in the Agricultural Residential District on or within the following parcels:

47-01-12-100-003 47-01-11-200-002 47-01-11-400-002 47-01-02-400-001

C. Application Requirements.

Utility-Scale Battery Energy Storage Systems are permitted as a special land use and require a special land use permit under Article 13. In addition to the requirements of Article 13, applicants shall provide the Township with all of the following:

1. Application fee in an amount set by resolution of the Township Board.
2. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.
3. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
4. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
5. Current photographs, videos, and topography maps of the subject property.
6. A conceptual plan that consists of a graphical computer-generated depiction of how the Utility-Scale Battery Energy Storage System will appear from all directions.
7. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.

8. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.

9. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.

10. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.

11. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.

12. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

13. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

14. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources exist to respond to fires and other emergencies. If adequate resources do not exist, the applicant shall identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.

15. A fire protection plan, which identifies the fire risks associated with the Utility-Scale Battery Energy Storage System; describes the fire suppression system that will be implemented, including the manufacturer of the fire suppression system, its operations, and its capacity to extinguish fires; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.

16. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility-Scale Battery Energy Storage System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Utility-Scale Battery Energy Storage System.

17. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.

18. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

19. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.

20. A ground cover vegetation establishment and management plan.

21. Proof of the owner/operator's insurance as required by this ordinance.

22. Compliance with the Michigan Uniform Building Code and National Electric Safety Code. Construction of Utility-Scale Battery Energy Storage Facilities shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any special land use permit under this section.

23. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

D. Site Plan Requirements.

Utility-Scale Battery Energy Storage Systems are permitted as a special land use and require site plan approval under Article 14. In addition to the requirements of Article 14, applicants site plans shall include all of the following:

1. Location of all proposed structures and buildings, including equipment, transformers, and substations.

2. Location of all existing structures or buildings on the subject parcel and location of all existing structures or buildings on adjacent parcels within 1000 feet of the property lines of the subject parcel.

3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.

4. Indication of how and where the system will be connected to the power grid.

5. Plan for any land clearing and grading required for the installation and operation of the system.

6. Plan for any ground cover establishment and management.
7. Anticipated construction schedule and completion date. As a condition of any special land use or site plan approval, hours of construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. with no construction on Saturday, Sunday, or any federally recognized holiday.
8. Sound modeling study including sound isolines extending from the sound sources to the property lines.
9. Any additional studies requested by the Planning Commission, including but not limited to the following:
 - a. Visual Impact Assessment: A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.
 - b. Environmental Analysis: An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.
 - c. Stormwater Study: An analysis by a third-party qualified professional studying the proposed layout of the Utility-Scale Battery Energy Storage System and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.
 - d. Glare Study: If the Utility-Scale Battery Energy Storage System includes solar panels, then an analysis by a third-party qualified professional to determine if glare from the solar panels will be visible from nearby airports, air strips, residences, and roadways may be required. The analysis will consider the changing position of the sun throughout the day and year and its influences on the solar panels.
10. Conceptual Layout Plan. Applicants shall submit a conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan shall consist of a map and summary of the proposed development or land use, indicating the lands to be included, a brief description of the proposed project, a timeline for the proposed project, and any other information applicant deems necessary to provide the Planning Commission with a general overview and layout of the proposed project. The conceptual layout plan shall be reviewed by the Planning Commission to allow for discussion and feedback to the applicant.

11. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state, and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the Township.

12. The site plan must show the existing topographical grades in two-foot intervals and conditions of all Participating Property at the time of application.

13. A baseline soil test including Cation Exchange Capacity (CEC) shall be provided to the Township prior to any construction.

14. A written description of how the applicant will address dust control during construction. Such plan shall, at a minimum, consist of water applications at least three times per day unless it has rained in the preceding three hours of the planned application.

E. System and Location Requirements.

The site development requirements shall meet or exceed all of the requirements in the Agricultural Residential District and all of the following:

1. *Lighting.* Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The Utility-Scale Battery Energy Storage System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads. Flashing or intermittent lights are prohibited.

2. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Battery Energy Storage System.

3. *Screening.* Greenbelt screening is required around any Utility-Scale Battery Energy Storage System and around any equipment associated with the system to obscure, to the greatest extent possible, the Utility-Scale Battery Energy Storage System from all sides.

a. Screening shall be installed to obscure the Utility-Scale Battery Energy Storage System and shall contain two rows of staggered evergreen trees planted not greater than twelve (12) feet apart trunk to trunk, and the two rows shall be no greater than ten (10) feet apart. Any substitution shall be approved in advance by the Planning Commission. No species of any Arborvitae shall be permitted.

b. Planting shall be at least eight (8) 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 reasonably expected to reach a height of ten (10) feet within three (3) growing seasons.

- c. The trees may be trimmed but shall maintain a height of at least eighteen (18) feet.
- d. Evergreen trees shall be Norway Spruce.
- e. Good arboricultural techniques shall be followed with respect to vegetation, including but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and shall be replanted in a manner consistent with this Section at the next appropriate planting time. Each dead or diseased vegetation shall be completely replaced at 50% as determined by the Zoning Administrator. Annual review by a Professional Arborist, paid for by the owner/operator, shall be performed to determine any plant/vegetation replacement necessary to remain in compliance with the ordinance.
- f. Utility-Scale Battery Energy Storage System also shall comply with the landscaping standards in Section 6.16 of the Zoning Ordinance.
- g. Front, side, and rear yard screening is required if the Utility-Scale Battery Energy Storage System is adjacent to a non-participating property.

4. *Noise.* All noise measurements are to be instantaneous and shall not be averaged. The noise generated by a Utility-Scale Battery Energy Storage System must not exceed the following limits, as measured at the property line of any adjacent parcel:

- a. 40 dBA Lmax between the hours of 7:00 a.m. and 9:00 p.m.
- b. 35 dBA Lmax between the hours of 9:00 p.m. and 7:00 a.m.
- c. The owner/operator of the Utility-Scale Battery Energy Storage System shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the applicant.

5. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

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

7. *Fire Protection.*

- a. Before any construction of the Utility-Scale Battery Energy Storage System begins, the Township's fire department (or fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township Supervisor of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Utility-Scale Battery Energy Storage System must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
- b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
- c. The Utility-Scale Battery Energy Storage System must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).

8. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence. The Township shall be listed as an additional insured on each policy.

9. *Permits.* All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating. A building permit is required for construction of a Utility-Scale Battery Energy Storage System, regardless of whether the applicant or operator is otherwise exempt under state law.

10. *Decommissioning.* If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of one (1) year.

11. *Financial Security.* To ensure proper decommissioning of a Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

12. *Extraordinary Events.* If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

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

- a. Current proof of insurance;
- b. Verification of financial security; and
- c. A summary of all complaints, complaint resolutions, and extraordinary events.

14. *Inspections.* The Township may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.

15. *Transferability.* A special use permit for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

16. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, may pursue any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

F. Utility-Scale Battery Energy Storage Systems under PA 233

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Battery Energy Storage Systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours or more. To the extent these provisions conflict with the provisions in subsection A through E above, these provisions control as to such Utility-Scale Battery Energy Storage Systems. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Battery Energy Storage Systems with a nameplate capacity of less than 50 megawatts. All provisions in subsection A through D above that do not conflict with this subsection remain in full force and effect.

1. *Setbacks.* Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. *Installation.* The Utility-Scale Battery Energy Storage System must comply with the version of NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” in effect on the effective date of the amendatory act that added this section or any applicable successor standard.

3. *Noise.* The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

4. *Lighting.* The Utility-Scale Battery Energy Storage System must implement dark sky-friendly lighting solutions.

5. *Environmental Regulations.* The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.

6. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 2. Amend Section 11.03

Section 11.03 of the Zoning Ordinance is amended to add the following use permitted by special land use permit in the Agricultural Residential District as item 10:

- 10) Utility-Scale Battery Energy Storage System (see Section 6.27)

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

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

88477:00001:200657467-1

CONWAY TOWNSHIP

RESOLUTION NO. 240709-2

**RESOLUTION TO ADOPT AN ORDINANCE TO AMEND THE ZONING
ORDINANCE TO REGULATE SOLAR ENERGY SYSTEMS IN ACCORDANCE WITH
PA 233 OF 2023**

At a special meeting of the Township Board for the Township of Conway, Livingston County, Michigan, held on the 9th day of July, 2024, at 7:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____
and seconded by _____.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, the Conway Township Board (“Township Board”) has adopted such a zoning ordinance (“Zoning Ordinance”) that regulates solar energy systems in the Township; and

WHEREAS, the Township Board desires to amend the Zoning Ordinance’s utility-scale solar energy system regulations in accordance with PA 233 of 2023; and

WHEREAS, the Conway Township Planning Commission (“Planning Commission”) held a duly noticed public hearing on June 27, 2024 to consider amendments to the Zoning Ordinance regarding utility-scale solar energy systems (“Proposed Amendments”); and

WHEREAS, the Planning Commission recommended adoption of the Proposed Amendments to the Township Board; and

WHEREAS, the Livingston County Planning Commission reviewed the Proposed

EXHIBIT A

CONWAY TOWNSHIP

ORDINANCE NO.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE SOLAR ENERGY SYSTEMS IN ACCORDANCE WITH PA 233 OF 2023

The Township of Conway ordains:

Section 1. Purpose

The Township adopts this Ordinance to render certain solar energy zoning regulations compatible with Public Act 233 of 2023 (“PA 233”), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety, and welfare of Township residents.

Section 2. Amendment to Section 6.26 of the Zoning Ordinance

Section 6.26 of the Township Zoning Ordinance is amended to add new subsection (D), entitled “Utility-Scale Solar Energy Systems under PA 233,” which reads as follows in its entirety:

D. Utility-Scale Solar Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more. Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more shall only be permitted as a special land use in the Agricultural Residential District on or within the following parcels:

47-01-12-100-003 47-01-11-200-002 47-01-11-400-002 47-01-02-400-001

To the extent the following provisions conflict with the provisions in subsections A through C above (regulating Solar Energy Systems), the provisions below control as to Utility-Scale Solar Energy Systems with a nameplate capacity of 50 megawatts or more. All provisions in subsections A through C above that do not conflict with this subsection remain in full force and effect and shall be applicable to all Utility-Scale Solar Energy Systems regardless of nameplate capacity. The following provisions do not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to Utility-Scale Solar Energy Systems with a nameplate capacity of less than 50 megawatts.

a. *Setbacks.* Utility-Scale Solar Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

b. *Fencing.* Fencing for the Utility-Scale Solar Energy System must comply with the latest version of the National Electric Code as November 29, 2024, or as subsequently amended.

c. *Height.* Solar panel components must not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.

d. *Noise.* The Utility-Scale Solar Energy System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

e. *Lighting.* The Utility-Scale Solar Energy System must implement dark sky-friendly lighting solutions.

f. *Environmental Regulations.* The Utility-Scale Solar Energy System must comply with applicable state or federal environmental regulations.

g. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Solar Energy System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

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

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CONWAY TOWNSHIP

RESOLUTION NO. 240709-3

RESOLUTION TO ADOPT AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE WIND ENERGY SYSTEMS IN ACCORDANCE WITH PA 233 OF 2023

At a special meeting of the Township Board for the Township of Conway, Livingston County, Michigan, held on the 9th day of July, 2024, at 7:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution were offered by _____ and seconded by _____.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, the Conway Township Board (“Township Board”) has adopted such a zoning ordinance (“Zoning Ordinance”) that regulates wind energy systems in the Township; and

WHEREAS, the Township Board desires to amend the Zoning Ordinance’s utility-scale wind energy system regulations in accordance with PA 233 of 2023; and

WHEREAS, the Conway Township Planning Commission (“Planning Commission”) held a duly noticed public hearing on June 27, 2024 to consider amendments to the Zoning Ordinance regarding utility-scale wind energy systems (“Proposed Amendments”); and

WHEREAS, the Planning Commission recommended adoption of the Proposed Amendments to the Township Board; and

WHEREAS, the Livingston County Planning Commission reviewed the Proposed Amendments at a meeting on July 9, 2024, and provided comments to the Township Board; and

EXHIBIT A

CONWAY TOWNSHIP

ORDINANCE NO.

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE WIND ENERGY SYSTEMS IN ACCORDANCE WITH PA 233 OF 2023

The Township of Conway ordains:

Section 1. Purpose

The Township adopts this Ordinance to render certain wind energy zoning regulations compatible with Public Act 233 of 2023 (“PA 233”), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety, and welfare of Township residents.

Section 2. Amendment of Section 6.24, Wind Energy Systems

Section 6.24 of the Township Zoning Ordinance is amended to add new subsection (D), entitled “Utility-Scale Wind Energy Systems under PA 233,” which reads as follows in its entirety:

D. Utility-Scale Wind Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Utility-Scale Wind Energy Systems with a nameplate capacity of 100 megawatts or more. Utility-Scale Wind Energy Systems with a nameplate capacity of 100 megawatts or more shall only be permitted as a special land use in the Agricultural Residential District on or within the following parcels:

47-01-12-100-003 47-01-11-200-002 47-01-11-400-002 47-01-02-400-001

To the extent the following provisions conflict with the provisions in subsections A through C above, these provisions control as to Utility-Scale Wind Energy Systems with a nameplate capacity of 100 megawatts or more. All provisions in subsections A through C above that do not conflict with this subsection remain in full force and effect and shall be applicable to all Utility-Scale Wind Energy Systems regardless of nameplate capacity. The following provisions do not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to Utility-Scale Wind Energy Systems with a nameplate capacity of less than 100 megawatts.

1. *Setbacks.* Utility-Scale Wind Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

2. *Shadow Flicker.* Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.

3. *Height.* Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

4. *Noise.* The Utility-Scale Wind Energy System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

5. *Lighting.* The Utility-Scale Wind Energy System must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:

- (a) The purpose of the exemption.
- (b) The proposed length of the exemption.
- (c) A description of the light-mitigating technologies submitted to the Federal Aviation Administration.

(d) The technical or economic reason a light-mitigating technology is not feasible.

(e) Any other relevant information requested by the Township.

6. *Radar Interference.* The Utility-Scale Wind Energy System must meet any standards concerning radar interference, lighting (subject to subparagraph (v)), or other relevant issues as determined by the Township.

7. *Environmental Regulations.* The Utility-Scale Wind Energy System must comply with applicable state or federal environmental regulations.

8. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Wind Energy System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

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

**CONWAY TOWNSHIP
NOTICE OF ORDINANCE ADOPTIONS**

On July 9, 2024, the Township Board of Conway Township, Livingston County, Michigan, adopted Ordinances No. 240709-1, An Ordinance to Adopt a Zoning Ordinance to Regulate Utility-Scale Battery Energy Storage Systems (the “Battery Ordinance”); No. 240709-3, An Ordinance to Amend the Zoning Ordinance to Regulate Wind Energy Systems in Accordance with PA 233 of 2023 (the “Wind Ordinance”); and No. 240709-2, An Ordinance to Amend the Zoning Ordinance to Regulate Solar Energy Systems in Accordance with PA 233 of 2023 (the “Solar Ordinance”).

The Ordinances are available for inspection at the Township Hall, 8015 N. Fowlerville Road, Fowlerville, MI 48836, during regular business hours. Copies may be obtained for a reasonable charge. The Ordinances take effect seven (7) days after the date of this Notice. Below is a summary of each Ordinance.

SUMMARY OF BATTERY ORDINANCE

Section 1. Addition of New Section 6.27. A new Section 6.27, “Battery Energy Storage Systems,” is added to the Zoning Ordinance. The new section regulates the system and location requirements and special land use application requirements for utility-scale battery energy storage systems in the Township and provides definitions for the new section. The new section provides regulations for utility-scale battery energy storage systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours of more in accordance with PA 233.

Section 2. Amendment to Section 11.03. Section 11.03 is amended to add utility-scale battery energy storage systems as a special land use permitted in the Agricultural Residential zoning district.

Section 3. Validity and Severability. The Battery Ordinance’s provisions are severable.

Section 4. Repealer. Any ordinance or parts thereof that conflict with the Battery Ordinance are repealed to the extent necessary to give the Battery Ordinance full force and effect.

Section 6. Effective Date. The Battery Ordinance takes effect 7 days after publication.

SUMMARY OF WIND ORDINANCE

Section 1. The purpose of the Wind Ordinance is to ensure the Township’s zoning regulations for utility-scale wind energy systems comply with PA 233 of 2023 while retaining local control over matters of regulation not governed by PA 233.

Section 2. Amendment of Section 6.24. Section 6.24 is amended by the addition of new subsection D, which provides zoning regulations applicable to utility-scale wind energy systems with nameplate capacities of 100 megawatts or more once PA 233 of 2023 takes effect.

Section 3. Validity and Severability. The Wind Ordinance’s provisions are severable.

Section 4. Repealer. Any ordinance or parts thereof that conflict with the Wind Ordinance are repealed to the extent necessary to give the Wind Ordinance full force and effect.

SUMMARY OF SOLAR ORDINANCE

Section 1. Purpose. The purpose of the Solar Ordinance is to ensure the Township’s zoning regulations for utility-scale solar energy systems comply with PA 233 of 2023 while retaining local control over matters of regulation not governed by PA 233.

Section 2. Amendment of Section 6.26. Section 6.26 is amended by the addition of new subsection D, which provides zoning regulations applicable to utility-scale solar energy systems with nameplate capacities of 50 megawatts or more once PA 233 of 2023 takes effect.

Section 3. Validity and Severability. The Solar Ordinance’s provisions are severable.

Section 4. Repealer. Any ordinance or parts thereof that conflict with the Solar Ordinance are repealed to the extent necessary to give the Solar Ordinance full force and effect.

Rachel Kreeger
Township Clerk
8015 N. Fowlerville Road
Fowlerville, MI 48836
(517) 223-0358