

**KOCHVILLE TOWNSHIP  
ORDINANCE # 24-07  
AMENDS ORDINANCE #21-02 SOLAR ENERGY FACILITIES**

**WHEREAS**, the Kochville Township Board desires to AMEND Ordinance #21-02, which regulates Solar Energy Facilities in Kochville Township, to create a compatible renewable energy ordinance in pursuant to 2023 PA 233, as may be amended, MCL460.1221 *st. seq.*; and to provide for severability; and to repeal all ordinances or parts of ordinances in conflict therewith.

**WHEREAS**, this ordinance provides that an Solar Energy Facility with a nameplate discharge capacity of 50 megawatts of energy or more whether on a single parcel of land or located on different parcels, contiguous or non-contiguous, shall be regulated by the Michigan Public Service Commission under MCL460.1226(5).

**WHEREAS**, the adoption of the amended Solar Energy Facilities Compatibility Ordinance still provides that solar energy facilities with a nameplate discharge capacity under 50 megawatts, are still regulated by Kochville Township, County of Saginaw, State of Michigan.

**NOW, THEREFORE, BE IT ORDAINED** by the Kochville Township Board, as follows:

**ARTICLE 1.**

**RENEWABLE ENERGY FACILITIES OVER 50 MEGAWATTS NAMEPLATE DISCHARGE CAPACITY**

**SECTION ONE. TITLE**

This Article shall be known and shall be cited as the "Solar Energy Facilities Ordinance – 50 Megawatts and Greater".

**SECTION TWO. DEFINITIONS**

Words used herein shall have the following definitions:

1. "Affected local unit" means a unit of local government in which all or part of a proposed energy facility will be located.
2. "Applicant" means an applicant for a Township permit.
3. "Certificate" means a certificate issued for an energy facility by the Michigan Public Service Commission under MCL 460.1226(5).
4. "Compatible renewable energy ordinance" means an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in section MCL 460.1226(8). A local unit of government is considered not to have a compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction.

6. "Construction" means any substantial action taken constituting the placement, erection, expansion, or repowering of an energy facility.
7. "Energy facility" means an energy storage facility, solar energy facility, or wind energy facility. An energy facility may be located on more than 1 parcel of property, including noncontiguous parcels, but shares a single point of interconnection to the grid.
8. "Energy storage facility" means a system that absorbs, stores, and discharges electricity with a nameplate capacity of 50 megawatts or more and an energy discharge capacity of 200 megawatt hours or more. Energy storage facility does not include either of the following:
  - (i) Fossil fuel storage.
  - (ii) Power-to-gas storage that directly uses fossil fuel inputs.
9. "Independent power producer", or "IPP", means a person that is not an electric provider but owns or operates facilities to generate electric power for sale to electric providers, this state, or local units of government.
10. "Local unit of government" or "local unit" means a county, township, city, or village.
11. "Nameplate capacity" means the designed full load sustained generating output of an energy facility. Nameplate capacity shall be determined by reference to the sustained output of an energy facility even if components of the energy facility are located on different parcels, whether contiguous or noncontiguous.
12. "Nonparticipating property" means a property that is adjacent to an energy facility and that is not a participating property.
13. "Occupied community building" means a school, place of worship, day-care facility, public library, community center, or other similar building that the applicant knows or reasonably should know is used on a regular basis as a gathering place for community members.
14. "Participating property" means real property that either is owned by an applicant or that is the subject of an agreement that provides for the payment by an applicant to a landowner of monetary compensation related to an energy facility regardless of whether any part of that energy facility is constructed on the property.
15. "Person" means an individual, governmental entity authorized by this state, political subdivision of this state, business, proprietorship, firm, partnership, limited partnership, limited liability partnership, co-partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, subchapter S corporation, limited liability company, committee, receiver, estate, trust, or any other legal entity or combination or group of persons acting jointly as a unit.
16. "Repowering", with respect to an energy facility, means replacement of all or substantially all of the energy facility for the purpose of extending its life. Repowering does not include repairs related to the ongoing operations that do not increase the capacity or energy output of the energy facility.

17. "Solar energy facility" means a system that captures and converts solar energy into electricity, for the purpose of sale or for use in locations other than solely the solar energy facility property, and with a nameplate capacity of 50 megawatts or more. Solar energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: photovoltaic solar panels; solar inverters; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; energy storage facilities; overhead and underground control; communications and radio relay systems and telecommunications equipment; utility lines and installations; generation tie lines; solar monitoring stations; and accessory equipment and structures.

### **SECTION THREE. APPLICATION TO CONSTRUCT AN ENERGY FACILITY**

An electric provider or IPP that proposes to obtain a certificate from the Michigan Public Service Commission to construct an energy facility within the Township shall follow the following application process:

1. At least 60 days before the public meeting provided for in MCL 460.1223, an electric provider or IPP shall offer in writing to meet with the Township Supervisor, or the Supervisor's designee, to discuss the site plan. The offer to meet must be delivered by email and certified mail and must also be sent to the Township Board in care of the Township Clerk in this same manner. The Supervisor or Supervisor's designee must respond within 30 days from the offer to meet.
2. Within 30 days following the meeting described in paragraph 1, the Township Supervisor shall notify the electric provider or IPP planning to construct the energy facility that the Township has a compatible renewable energy ordinance. If all affected local units with zoning jurisdiction provide similar timely notice to the electric provider or IPP, then the electric provider or IPP shall file for approval of a permit with the Township.
3. To file for approval of a permit the electric provider or IPP must submit a complete application to the Township Clerk. The application form to be used shall be adopted by resolution of the Township Board. The application shall contain the items set forth in MCL 460.1225(1), except for (l)(j) and (s). The application may also require other information to determine compliance with this Compatible Renewable Energy Ordinance. By resolution, the Township may establish an application fee and escrow policy to cover the Township's reasonable costs of review and processing of the application, including but not limited to staff, attorney, engineer, planning, environmental, or other professional costs.

**SECTION FOUR. APPLICATION REVIEW.**

The application shall be processed as a special land use subject to the provisions of this Article. The Planning Commission recommendation with decision by the Township Board shall approve or deny the application within 120 days after receiving a complete application. This deadline may be extended by up to 120 days if jointly agreed upon by the Township Board and the applicant. In consideration of the application the Township Board must approve the application and issue a permit for the requested construction if it complies with the following standards:

- (i) The following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

<u>Setback Description</u>	<u>Setback Distance</u>
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

- (ii) Fencing for the solar energy facility complies with the latest version of the National Electric Code as of November 29, 2024 or any applicable successor standard approved by the Michigan Public Service Commission as provided in MCL 460.1226(8)(a)(ii). (Minimum height: 7 feet – NEC 110.31, 2017)
- (iii) Solar panel components do not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.
- (iv) The solar energy facility does 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.
- (v) The solar energy facility will implement dark sky-friendly lighting solutions.
- (vi) The solar energy facility will comply with any more stringent requirements adopted by the Michigan Public Service Commission as provided in MCL 460.1226(8)(a)(iv).

Section Five - Additional Standards

In addition to special land use standards within Section Four, the following standards shall be required for renewable energy facilities over 50 megawatts nameplate discharge capacity. These standards may be waived or lessened upon Township Board approval:

1. Solar panel components shall not exceed a maximum height of 15 feet above ground when arrays are at full tilt
  2. Upon commencement of any operation, the energy facility owner must pay Kochville Township an additional \$1,000.00 (one thousand dollars) per megawatt of nameplate capacity located within Kochville Township, plus the amount required under a host community agreement as identified. This one-time payment shall also be required of any expansion capacity within the approved energy facility.
  3. Any approved renewable energy facility of at least one megawatt of discharge capacity shall submit to Kochville Township a decommissioning plan as a condition for special use permit approval. Any decommissioning plan may be recorded against the deed for the affected real estate parcel(s). The Kochville Township Board may deny any proposed decommissioning plan if it does not meet the criteria established in Article 2, Section Nine of this ordinance.
  4. Renewable energy facilities shall provide a landscaping plan as a condition of special use permit approval, which shall meet the following criteria:
    - i. Renewable energy facilities located adjacent to an improved residential use shall provide landscape screen of two rows of closely-spaced, staggered evergreen plantings, planted no more than twelve (12) feet on center, front to back and side to side, which can reasonably be expected to form a visual barrier that is at least eight (8) feet above ground level within three (3) years of planting. The minimum height at time of planting shall be no less than six (6) feet in height with a diameter of no less than four (4) feet at its base and a species of evergreen that produces dense growth capable of producing a complete visual barrier. The landscape buffer shall be installed outside of the renewable energy facility fence line extending toward the road and/or residential use.
    - ii. Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the renewable energy facility.
    - iii. Each owner, operator or maintainer of a renewable energy facility must maintain the landscape buffer so that the vegetation will reach maturity as soon as practical. Dead or diseased landscaping shall be removed and must be replanted within six months, or at the next appropriate planting time, whichever is sooner.
    - iv. Grasses on participating lots shall be maintained by the facility operator to not exceed six (6) inches in height, unless otherwise specified in an approved landscaping plan.
- b. Renewable energy facilities are limited to the A-1 Agricultural and the R-1A Low Density Transitional Residential districts
  - c. Renewable energy facilities shall comply with the standards of Article 2, Section 7.

**SECTION FIVE. ISSUANCE AND COMPLIANCE WITH PERMIT**

1. Upon approval of an application the Township shall issue the permit to the electric provider or IPP. Construction of the proposed energy facility must begin within 5 years after the date the permit is issued and any challenges to the grant of the permit are concluded. The Township Board may extend this timeline at the request of the electric provider or IPP without requiring a new application.
2. The permit shall require the electric provider or IPP to remain in compliance at all times with the standards identified for approval of the permit and all documentation submitted with and affirmations made in the application, including, but not limited to, the site plan, decommissioning plan, fire response plan, and emergency plan. No changes may be made to the permit by the electric provider or IPP without the written agreement of the Township. The energy facility must further comply with all local ordinances, state and federal laws and regulations except as otherwise provided in Section MCL 460.1231. The Township shall not revoke a permit except for material noncompliance with the permit by the electric provider or IPP.
3. A permit may be transferred to another electric provider or IPP upon the filing with the Township of an attestation by the transferee that it accepts the terms of the permit and acknowledges that it is subject to this Ordinance.

**SECTION SIX. HOST COMMUNITY AGREEMENT**

The permit holder shall enter into a host community agreement with the Township within 90 days after issuance of the permit. The host community agreement shall require that, upon commencement of any operation, the energy facility owner must pay the Township \$2,000.00 per megawatt of nameplate capacity located within the Township. 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 Township and the permit holder within said 90 days.

**SECTION SEVEN. INTERPRETATION**

The provisions contained in this Article are intended to meet the definition of a Compatible Renewable Energy Ordinance pursuant to 2023 PA 233, as may be amended, MCL 460.1221 et. seq. and shall only be interpreted in a manner consistent with such intent.

## ARTICLE 2.

### RENEWABLE ENERGY FACILITIES UNDER 50 MEGAWATTS NAMEPLATE DISCHARGE CAPACITY

#### SECTION ONE. TITLE

This ordinance shall be known and shall be cited as the "Solar Energy Facilities Ordinance 50 Megawatts and LESS of Discharge Capacity".

#### SECTION TWO. PURPOSES AND OBJECTIVES

The purposes and objectives for which this ordinance is passed are as follows:

- A. To preserve the dignity and aesthetic quality of the environment in Kochville Township.
- B. To preserve the physical integrity of land in close proximity to residential areas.
- C. To protect and enhance the economic viability and interests of the citizens and residents of Kochville Township.
- D. To facilitate the construction, installation, and operation of Solar Energy Facilities (SEFs) which are under 50 MEGAWATTS in nameplate discharge capacity in Kochville Township in a manner that minimizes the adverse impacts to forestry, agricultural, commercial, and residential lands. 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 provisions of local, state, or federal law.

#### SECTION THREE. DEFINITIONS

For the purpose of ARTICLE 2, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

**Abandonment:** To give up, discontinue, withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

**Building:** Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals, or chattels.

**Decommissioning plan:** A document that details the planned shut down or removal of a solar energy facility from operation or usage.

**Fence:** A continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of steel, or other material of similar nature and strength.

**Improved Area:** The area containing solar panels, electrical inverters, storage buildings, fences, and access roads.

**Laydown Yard:** A laydown yard is a temporary worksite that is necessary for the construction, operation, maintenance, and decommissioning of a SEF. A laydown yard is used to house employee office sites and facilities, store materials, components, and equipment, and to provide parking and locations for temporary facilities such as construction trailers. Hours of operation for a laydown yard shall be similar to other kinds of construction sites, typically from 7:00 a.m. to 7:00 p.m. during weekdays, with hours limited on the weekends from 10:00 a.m. to 4:00 p.m.

**Maximum Tilt:** The maximum angle or the most vertical position of a solar array as compared to the horizon line.

**Minimum Tilt:** The minimum or most horizontal angle of a solar array as compared to the horizon line.

**Non-Participating Lot(s):** One or more lots for which there is not a signed lease or easement for development of a principal-use SEF associated with the applicant/project.

**Opaque Fence:** A continuous opaque, un-perforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point, constructed of steel, or any substance of a similar nature and strength which will hide the solar energy facility.

**Participating Lot(s):** One or more lots under a signed lease or easement for development of a principal-use SEF associated with the applicant project.

**Public Road:** Any road or highway which is now or hereafter designated and maintained by the Saginaw County Road Commission as part of the County Road System. Setbacks for improved areas shall be measured from the road right of way.

**Solar Array:** A photovoltaic panel, solar thermal collector, or collection of panels in a solar energy system that collects solar radiation.

**Solar Energy Facility (SEF):** An energy facility includes an area of land principally used to convert solar energy to electricity, which includes, but is not limited to, all the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. This term applies to solar photovoltaic (PV) systems used for the purpose of generating and selling energy to a public utility off site and does not apply to private commercial or residential uses where the energy is used for supplying supplemental electricity for on-site uses.

**Solar Glare:** The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.



**Repowering:** Reconfiguring, renovating, or replacing and SEF to maintain or increase the power rating of the SEF within the existing project footprint.

#### **SECTION FOUR. DESCRIPTION AND FEE**

- A. A general description of the proposed project, including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
- B. A description and drawing of the proposed technology to include the type of solar panel and system, fixed mounted versus solar tracking, height of panels, number of panels, and angles of orientation.
- C. Applicant shall remit an application fee and an escrow deposit, in the amount specified by Township policy. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If a professional review of plans is required, then such costs shall be paid from the escrow deposit.
- D. An escrow account in the form of a cash deposit of not less than \$7,500, or such other amount estimated by the Township Board, shall be set up when the Applicant applies for a Special Use Permit. The deposit shall be sufficient to cover all reasonable costs and expenses associated with the special land use zoning review and approval process, which costs can include, but are not limited to, fees of Township consultants and other third-party professionals such as an Attorney, Community Planner, and Professional Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Township may require that the Applicant place additional monies into the Township escrow should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion which includes approval of the final inspection of the SEF site, including all conditions of the site plan approval. An itemized billing of all expenses shall be provided to the Applicant. The Township may hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical, environment, economics, wildlife, health, and land-use.

## SECTION FIVE LOCATION

- A. The location of a Solar Energy facility is limited to the A-1 Agricultural and the R-1A Low Density Transitional Residential Districts within Kochville Township.
- B. A solar energy facility is limited to sites with a minimum lot size of 20 acres of land.
- C. A solar energy facility must comply with the requirements of this Chapter and other applicable chapters or sections of the Kochville Township Code of Ordinances.
- D. A solar energy facility shall be considered a special use in the township subject to Section 155.306 and 155.307 of the zoning ordinance.
- E. All improved areas, including disposal areas, shall maintain a minimum 60-foot front, side, and rear yard setback. All solar panels, electrical inverters, storage buildings, and access roads shall maintain a minimum 25-foot setback from the associated perimeter fencing . In the event that an opaque fence is installed the setback may be reduced to 20 feet.
- F. A setback is not required for any component that is part of the SEF from the common property lines of adjacent leased property.
- G. All structures related to the SEF shall be subject to the dimensional and locational requirements for structures in the underlying zoning district.
- H. Improved areas shall be at least 150 feet from any residential use, family or group child day-care home, or church, measured from the closest lot line.
- I. All access roads and storage areas shall be established on a 30' minimum easement to a public right of way. Such easements shall be recorded at the Saginaw County Register of Deeds.
- J. Solar panels and associated racking is limited in height to 12 feet, measured from the existing natural grade at the base of such equipment to the highest point of the system at maximum tilt.
- K. A SEF shall not be held to the maximum lot coverage requirements of the district.
- L. The location of laydown yards shall be on a highway, all season, or primary road as identified by the Saginaw County Road Commission. In no case shall a laydown yard be permitted on a gravel road.
- M. Screening Requirements.
  - 1. The Applicant shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, and planting.
  - 2. All SEF shall have a minimum landscape buffer of 25 feet along any road or adjacent to a residential use, which shall consist of grass ground cover and two (2) rows of closely-spaced, staggered evergreen plantings, planted no more than twelve (12) feet on center, front to back and side to side, which can reasonably be expected to form a visual barrier that is at least eight (8) feet above ground level within three (3)

years of planting. The minimum height at time of planting shall be no less than six (6) feet in height with a diameter of no less than four (4) feet at its base and a species of evergreen that produces dense growth capable of producing a complete visual barrier. The landscape buffer shall be installed outside of the SEF fence line extending towards the road and/or residential use.

Example:



3. Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the SEF pursuant to practices of best management of natural areas or good husbandry of the land or forest other prescribed by applicable laws, regulations, and bylaws.
4. Each owner, operator or maintainer of a solar energy facility shall maintain the landscape buffer so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased landscaping shall be removed and must be replanted at the next appropriate planting time. Plants or grasses on participating lots, including those within the landscaping buffer, shall be maintained by the facility operator to not exceed six (6) inches in height.
5. Applicant must provide a detailed maintenance plan for the proposed solar energy system and surrounding area, including provisions that will be employed to maintain and promote native vegetation while minimizing the proliferation of weeds during and following construction.
6. Wherever screening is adjacent to a residence and/or non-participating lot, the Planning Commission may require additional screening methods including, but not limited to opaque fencing, berms, and/ or additional plantings to achieve a complete visual barrier.

## **SECTION SIX. SECURITY**

- A. Solar energy facilities shall be fenced completely as defined in Section Five above. The perimeter fence shall be designed to restrict unauthorized access and additional security measures are encouraged and must meet the requirements of the applicable electric code. Opaque fences shall not be composed of fabrics, tarps, or similar materials such as slats in a chain link fence which are prone to fraying over time.

## **SECTION SEVEN. SUPPLEMENTAL REGULATIONS**

- A. Signage:
1. The manufacturers or installer's identification and appropriate warning signs shall be posted on or near the panels in a clearly visible manner.
  2. Signage should, at minimum, include warning high voltage, contact information for owner/operator, unique identification such as the address for the SEF in case of emergency. No portion of the SEF shall be used to display advertising.
  3. The manufacturers' information or ownership information may be allowed on any equipment of the SEF, provided that they comply with the prevailing sign regulations.
  4. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator that may be contacted 24 hours and 7 days a week.
- B. Emergency Services: Marking is required to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system in the event of a fire or emergency. The main service disconnect marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. Materials used for marking shall be weather resistant. UL 969 shall be used as a standard for weather rating. The Applicant shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Appropriate measures shall be taken to ensure that emergency services can safely access the SEF. Access roads and internal routes within an SEF that are anticipated to be utilized by emergency vehicles shall be maintained throughout construction and shall be identified on the site plan provided to the local fire chief. The Applicant, Owner, or Operator will cooperate with local emergency services in developing an emergency response plan.
- C. Wiring: On site power lines between solar panels and inverters shall be placed underground. Any above-ground wiring within the footprint of the SEF shall not exceed the height of the solar array at maximum tilt.
- D. Screening: The design of solar energy facilities buffers shall use materials, colors, textures, screening, and landscaping, that will blend the facility into the natural setting and existing environment.
- E. Batteries: If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state, and federal requirements regulating outdoor battery storage have been met.
- F. Driveway: The applicant must obtain a driveway permit from the Saginaw County Road Commission.
- G. Reflection and Glare:

1. The design and construction of the solar energy facility shall be sited so as not to produce light emissions, either direct or indirect (reflective), that would interfere with pilot vision and/or traffic control operations or emit glare which negatively impacts adjacent properties and is a nuisance.
  2. The Applicant or Owner has the burden of proof that any glare produced does not have an adverse effect of adjacent uses through siting and mitigation. The Applicant shall provide a mitigation plan at the time of application.
  3. The Planning Commission may require an analysis by a third-party qualified professional to determine if glare from the SES will be visible from nearby residents and roadways. If required, the analysis shall consider the changing position of the sun throughout the day and year, and its influence on the SES.
- H. Utility: A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
- I. Landowner Agreement: An affidavit or evidence of an agreement between the property owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.
- J. Studies and Reports: Any other relevant studies, reports, certificates, and approval as may be reasonably required by Kochville Township.
- K. Certifications: Certification that the applicant has complied with or will comply with all applicable county, state, and federal laws, regulations, and ordinances, including compliance with the following:
1. Farmland and Open Space Preservation Program (Part 361 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 as amended, more commonly known as PA 116), and with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 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.), and Part 303 Wetlands (MCL 324.30301 et seq.).
  2. The applicant shall be responsible for making repairs to any public roads, drains and infrastructure damaged by the construction or operation of the solar energy facility. The applicant/owner will be required to enter into a road use agreement and drain agreement with the County Road Commission and Drain Commission for post-construction repairs, if required by these agencies.
  3. Copies of all such permits and approvals that have been obtained or applied for at the time of the application.

- L. Manufacturers Safety Data Sheets: Documentation shall include the type and quality of all materials used in the operation of all equipment. The Applicant shall submit manufacturer's safety data sheets.
- M. Maintenance Plan: The Applicant shall submit a maintenance plan that describes the following:
  - 1. Explains routine maintenance to solar panels and facility.
  - 2. Demonstrates the SEF will be designed, constructed, and operated to minimize dust generation, including the provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust.
  - 3. States the manner in which unpaved access roads will be treated and maintained, either with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust.
  - 4. Provisions that will be employed to maintain and promote native vegetation while minimizing the proliferation of weeds during and following construction. A record of mowing and the height of vegetation/ grass following each cutting shall be recorded in the maintenance log described below.
  - 5. If a SEF is not maintained in operational and reasonable condition or poses a potential safety hazard, the owner shall take expeditious action to correct the situation, including SEF removal as necessary.
  - 6. The owner shall keep a maintenance log on each SEF and must provide a complete log to the Township annually or within thirty (30) days of request.
- N. Lighting: Lighting shall be consistent with local, state, and federal law, and shall be limited to that required for safety and operational purposes. Lighting shall comply with the requirements of the Township zoning ordinance.
- O. Noise: The sound pressure level of a SEF and all ancillary solar equipment shall not exceed 45 dBA (Leq (1-hour)) at the property line of an adjoining non-participating lot. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
- P. Transfer of Sale: If a SEF ownership changes, the Township shall be notified within 30 days of sale.
  - a. Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security adjusted to account for the new estimate.
  - b. The new owner/operator must meet with the Kochville Township Zoning Administrator within sixty (60) days of the change in ownership.
- Q. Road Use Agreement: The Applicant, Owner, or Operator shall enter into an agreement with the Saginaw County Road Commission which, at minimum, satisfies the following requirements:

- a. Identifies the routes intended for use in connection with the development, construction, operation, and maintenance of the SEF.
- b. Surveys and provides a baseline report of the condition of such routes prior to use by the SEF.
- c. Agrees to restore affected roads, at minimum, to the condition reflected in the baseline report within ninety (90) days of permit process completion.

#### **SECTION EIGHT. SITE PLAN REQUIRED**

- A. Owners or operators of solar energy facilities established after the effective date of this ordinance shall present four (4) copies of a site plan which conform to the standards of this ordinance, and submit the required fee, to the Kochville Township Community Development Department. The site plan shall include setbacks, panel locations, any ground mounted electrical equipment, panel sizes, and location of property lines, buildings, road right of ways, utility easements, and buffer landscaping plan.
- B. The owners shall submit a map analysis showing a radius of five (5) nautical miles from the center of the solar energy facility (SEF) with any airport operations within the area highlighted and such map shall be submitted with the permit application.
- C. For consideration of potential impacts to low altitude airport flight paths, notification of intent to construct the SEF shall be sent to the Airport Zoning Authority having jurisdiction, at least sixty (60) days before the scheduled Planning Commission meeting. Notification shall include location of the SEF (i.e. map, coordinates, address, parcel ID), technology (i.e. ground-mounted fixed, tracked PV, solar thermal, etc.), and the area of the system (e.g. 20 acres). A copy shall be included with the permit application and site plan including the proof of delivery of the notification and date of delivery to the Airport Zoning Authority.
- D. The owners shall submit copies of regulatory approvals from applicable state and federal agencies having jurisdiction.
- E. A certificate of insurance with a minimum of \$1,000,000 liability coverage per incidence, per occurrence shall be required naming Kochville Township as additional insured. An expired insurance certificate or an unacceptable liability coverage amount is grounds for revocation of the special use permit.
- F. The Zoning Administrator or Township Zoning Consultant shall review the site plan and submit the plan to the Planning Commission within forty five (45) days of receipt and staff review to insure conformity with the requirements of this ordinance. After review and study of any application and related material, the Planning Commission shall hold a Public Hearing. Notices shall be given in accordance with section 155.385.

- G. The Planning Commission shall make recommendation to the Kochville Township Board of Trustees to approve, deny, or approve with conditions, a request for Special Use Permit within sixty (60) days of its submission to the Planning Commission.
- H. The Kochville Township Board shall require a surety bond in an amount sufficient to cover costs of removal of the SEF in case of abandonment.
- I. Any modifications of the approved site plan that are made after the initial approval, which include the expansion or reduction of the project area, shall be re-submitted to the Township Planning Commission for review and approval at an additional fee based upon the current fee schedule. Incidental and minor variations of the approved site plan may be approved by the Zoning Administrator. Incidental and minor variations in this context are defined as a change in location of access roads, solar panels, electrical inverters, storage buildings which conform to the requirements of this Ordinance and are within the approved project area.

#### **SECTION NINE: ABANDONMENT AND DECOMMISSIONING PLAN**

- A. Abandonment: A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Zoning Administrator or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to notify the Kochville Township Board of Trustees at the time of abandonment of the SEF. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the property to its condition prior to development of the SEF.
  - 1. A condition of every approval shall be adequate provision for the removal of SEF facilities in their entirety whenever they cease to actively produce power for 12 months. The Board of Trustees can grant an extension of an additional 6 months upon the SEF owner demonstrating that the facilities will be put back into use, in which case the SEF owner must provide data indicating the repaired SEF is in good operational condition and functioning at efficiency similar to surrounding SEF. Removal shall include the proper receipt of a demolition permit from the Building Official and proper restoration of the site, including but not limited to all participating parcels, to original condition. Removal of the structure, wiring, and all other components in their entirety.
  - 2. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SEF and restore the site to its condition prior to development of the SEF within one hundred and eighty (180) days after notice by the Zoning Administrator or other township designee.



3. If the responsible party (or parties) fails to comply, the Zoning Administrator may initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a non-hazardous pre-development condition.

B. Decommissioning:

1. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of the development permit.
  - i. The anticipated life of the project
  - ii. The estimated decommissioning costs net of salvage value in current dollars
  - iii. The method of ensuring that funds will be available for decommissioning and restoration which includes, but is not limited to:
    1. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.
    2. Restoration of property to condition prior to development of the SEF.
  - iv. Anticipated manner in which the project will be decommissioned and the site restored.
    1. Decommissioning shall include the removal of each Photovoltaic Panel, all electrical components, and associated facilities within the footprint of the SEF.
    2. All access roads to the SEF shall be removed, cleared, and graded by the facility owner, unless the property owner requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road, and such remaining roads will not be considered public roads.
    3. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner of the SEF or its assigns. If the site is not to be used for agricultural purposes following removal, the site shall be seeded to prevent soil erosion, and restored to its condition existing prior to any construction activities, unless the property owner(s) requests, in writing, the land surface areas not be restored.
  - v. A provision to give notice to the Township one year in advance of decommissioning.
  - vi. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment etc.)
  - vii. The timeframe for completion of decommissioning activities.
  - viii. Description of any agreement (e.g. lease) with landowner regarding decommissioning.

- ix. The party currently responsible for decommissioning.
  - x. Plans for updating this decommissioning plan.
2. A surety bond to assure payment of the cost of decommissioning shall be required. To ensure proper removal of the structure when it ceases to be used for a period of one year or more, any application for a new SEF shall include a description of the financial security guaranteeing removal of the SEF, which will be posted prior to receiving a building permit for the facility. The security shall be a: 1) cash deposit in a trust account; or 2) or any other financial instrument uninterrupted for the life of the project. The amount of such guarantee shall be no less than the estimated cost of removal and shall include a provision for inflationary cost adjustments. When determining the amount of such required security, the Township may also require future meetings at pre-set intervals to establish corrected values for decommissioning. The financial security instrument shall be adjusted to each determined corrected value.
  3. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The Applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.  
The amount of each SEF security guarantee shall be determined by way of a certified estimate by the Applicant's design professional and shall not include salvage value. That deposit shall be updated and supplemented every five (5) years based on the CPI (consumer price index) for each year.
  4. A condition of the Surety Bond shall be notification by the surety company to the Township Zoning Administrator thirty (30) days prior to its expiration or termination. Such financial guarantee shall be deposited with the Township Treasurer after a special use has been approved but before construction operations begin on the SEF project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this Ordinance and shall subject the Applicant to all available remedies to the Township, including enforcement action, fines, revocation of the special use approval and SEF removal.

## **SECTION TEN: COMPLAINT RESOLUTION**

It is the intent of this Ordinance to provide a mechanism to address and resolve complaints.

- A. The SEF Applicant shall submit a detailed, written complaint resolution process developed by the SEF Applicant to resolve complaints concerning the construction or operation of the SEF. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the special land use permit application.

- B. During or post-construction, the Township Board shall be kept appraised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. Such report shall be presented every sixty (60) days by the Applicant/Owner to the Township Board.
- C. The Owner/Operator will submit annual reports to the Board of the complaints and resolutions.

**SECTION ELEVEN: REPOWERING**

- A. If at the end of the lease period, or the useful life of the SEF, the applicant/owner decides to retrofit or repower the installation by reconfiguring, renovating, or replacing the existing components the Applicant/Owner shall provide the Planning Commission a proposal to change the project. It shall be considered a new application, subject to the ordinance standards at the time of the request.
  - 1. The Applicant/Owner would not need to apply for a new permit if they are performing routine maintenance, as described in the provided maintenance plan.

**SECTION TWELVE: VIOLATION SHALL BE A MISDEMEANOR**

Any person, firm, corporation, or other entity who maintains or operates or who controls the maintenance of a solar energy facility in violation of this ordinance shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished by a fine not to exceed \$500.00. Each day the solar energy facility shall be maintained or operated in violation of this ordinance shall constitute a separate liability offense.

**SECTION THIRTEEN: SEVERABILITY**

If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

**SECTION FOURTEEN: EFFECTIVE DATE**

This Ordinance shall become effective 30 days after publication and a copy of the ordinance is available for public use and inspection at the office of the Township Clerk.

**SECTION FIFTEEN: ADOPTION**

This ordinance known as **Ordinance 24-07**, being the Solar Energy Facilities Ordinance, of the Kochville Township Zoning Ordinance, is hereby declared to have been adopted by the Kochville Township Board, County of Saginaw, State of Michigan, at a regular meeting held on the \_\_\_Day of \_\_\_\_\_, **2024** and ordered to be given publication in a manner prescribed by law.

Motion by \_\_\_\_\_ and seconded by \_\_\_\_\_ to adopt Ordinance No. 24-07.

YEAS:

NAYS:

ABSTAINS:

ABSENT:

\_\_\_\_\_  
Alan Malesky, Supervisor  
Kochville Township

\_\_\_\_\_  
Kevin Machata, Clerk  
Kochville Township

**CERTIFICATION**

*State of Michigan, County of Saginaw*

I, the undersigned Township Clerk for the Township of Kochville, Saginaw County, Michigan, certify that the above **Ordinance No. 24-07**, adopted by the Township Board of Trustees of the Township on the \_\_\_\_\_Day of \_\_\_\_\_, **2024**, was recorded in full in the minutes of the meeting of the Township Board of Trustees on said date. It was signed by the Supervisor and Clerk of the Township.

Dated: \_\_\_\_\_

Kevin Machata, Kochville Township Clerk

Date of Publication: \_\_\_\_\_

Newspaper: The Saginaw News