

SCIPIO TOWNSHIP  
HILLSDALE COUNTY, MICHIGAN

(Ordinance No. 2023-1)

At a Special meeting of the Township Board for Scipio Township held at the Township Hall on 7-20, 2023 at 6:00 p.m., the following Ordinance was offered for adoption by the Township Board Member G. Nye and was seconded by Township Board Member C. Magde :

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

THE TOWNSHIP OF SCIPIO (THE "TOWNSHIP") ORDAINS:

Section 1: Title.

This Ordinance may be cited as the Scipio Township Solar Farm Ordinance

Section 2: Purpose.

The purpose of this Ordinance is to protect the health, safety, and welfare of the residents of the Township by adopting rules and procedures for the implementation of commercial solar energy systems within the Township in order to provide for the safe, effective, efficient and orderly installation and operation of such systems within the Township in consideration of and in community with the historical agricultural and rural residential character of the properties located within the Township, and to protect and preserve the Township's ecological and environmental assets, including, without limitation, its wetlands and other ecologically and environmentally sensitive areas.

Section 3: Definitions.

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

- Abandonment: A solar energy system is abandoned if it has not been in operation for a period of one year. This includes a solar energy system that was never operational or if construction has been halted for a period of one year.
- Solar energy system: Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy including the collection and transfer of heat created by solar energy to any other medium by any means.
- Solar farm: A solar energy system in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

- Township permit. A permit issued by the Township board pursuant to this Ordinance authorizing a solar farm to be constructed and operate within the Township.

Section 4. Solar farms.

No solar farm or any component thereof shall be erected, installed, or operated within Scipio Township unless a permit for such solar farm is first obtained from the Township board as provided for in this Ordinance and such solar farm and all components thereof are thereafter erected, installed, and operated strictly in conformity with the requirements of such permit, this Ordinance, and all other applicable law.

Section 5. Permit Application.

- A. Any individual or entity intending to erect, install, or operate a solar farm within Scipio Township must first submit an application for a Township Permit to the Township Clerk utilizing such application forms and processes as are adopted from time to time by the resolution of the Township board. Only complete applications will be accepted. In addition, the application fee provided for in subsection B1 below must be paid in full at the time the application is submitted, or the application will not be considered by the Township board.
- B. As part of the application process, the applicant will be required to provide the following information, documents, and materials, along with all such additional information, documents, and materials as may reasonably be required by the Township Board in order to properly evaluate the application:

1.

The application fee in an amount set from time to time by resolution of the Township Board.

- 2. A \$1000.00 application fee
- 3. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed operator, and the real property owners of the parcels being utilized as a part of the solar farm.
- 4. Project description identifying the construction time line, development phases, project life, possible future expansions, and means of attaining compliance with the requirements of this ordinance.
- 5. An affidavit of evidence of an agreement establishing that the applicant has the permission of the property owner to apply for the necessary permits for the construction and operation of the solar farm.
- 6. Scaled realistic drawings depicting the location, height, elevation, and size of all components of the solar farm.
- 7. Site plan showing the size and location of all proposed structures and equipment including but not limited to transformers, invertors, and photovoltaic panels; required setbacks; parcel lines; signage; fences; greenbelts, vegetation, and screening; drainage

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systems; irrigation systems; easements; rights-of-way; floodplains; bodies of water; lighting; proposed access routes; power transmission lines, or other lines, wires, or conduits; and land elevations. The site plan must be drawn to scale and must indicate how the solar farm will be connected to the power grid.

8. Economic impact study including but not limited to estimated temporary and permanent job creation associated with the solar farm.

9. Environmental and ecological impact studies detailing the effect the construction and operation of the solar farm will have on the parcels comprising the solar farm as well as the surrounding area. The impact study and mitigation plan must address water resources, air quality, wildlife, floodplains, wetlands, unique farm lands or soils, erosion and sediment control, areas of aesthetic or historic importance, archeological or cultural concerns, neighboring properties, utilities and infrastructure, noise, hazardous waste, electromagnetic interference, and any other relevant factors.

10. Proof of environmental compliance, including compliance with part 31 – Water Resources protection, of the Natural Resources and Environmental Protection Act, Part 91- Soil Erosion and Sedimentation Control, Part 301- Inland Lakes and Streams, Part 303 – Wetlands, Part 365 – Endangered Species protection, and any other applicable laws and rules in force at the time the application is considered by the Township board.

11. A transportation plan for construction and operation phases including any applicable agreements with the county road commission and the Michigan Department of Transportation.

12. A decommissioning plan demonstrating compliance with the requirements of Section 12.

C. All structures and equipment including but not limited to transmission towers, and power lines shall be located on one or more contiguous parcels of land that are not less than one parcel. The setbacks do not apply to the parcel line.

#### Section 6 Permitting Process

A. The Township board shall make a determination to approve or deny an application for a Township Permit within (90) days of the receipt by the Township clerk of the completed application and the payment in full of the application fee, unless within such 90-day period the Township board reasonably requests additional information, documents, or other materials from the applicant in which case the determination to approve or deny the application shall be made by the later of 90 days or thirty (30) days from the date that the additional information, documents or other materials are provided to the Township board.

B. The Township board will hold a public hearing on the application prior to rendering any final determination.

C. A Township permit will only be approved if the Township board determines that the construction and operation of the proposed solar farm will be in compliance with the requirements of this Ordinance and all other applicable local, state, and federal laws, rules, and regulations.

D. Compliance with the requirements of Sections 9,10, and 11 of this Ordinance will be a requirement of all Township permits approved and issued by the Township board.

- E. Modifications to a permitted solar farm must be approved by the Township board before they are made. Applications for and approval or denial of the right to make proposed modifications shall be in accordance with the requirements of section 5 and 6 of this ordinance except that information, documents, and other materials need only be submitted with regard to the proposed modifications and no public hearing shall be required before consideration of the application for approval of the modifications, except where the proposed modifications would involve utilizing additional real property beyond the boundaries of the real property upon which the permitted solar farm is currently located.
- F. A township permit is transferable to a new owner. The new owner must register its name and business address within the Township within ten business days of assuming ownership and must comply with this Ordinance and all approvals and conditions issued by the Township.

#### Section 7 Solar Farm Requirements

- A. Photovoltaic panels must be ground-mounted and may not exceed a height of 15 feet when measured from the ground to the top of the panel when oriented at maximum tilt.
- B. A solar farm may only be located on one or more contiguous parcels of real property that are owned by the same individual or entity that have an aggregate size of no less than twenty acres.
- C. All structures and equipment including but not limited to transformers invertors, and photovoltaic panels must be set back a minimum of 250 feet from all parcel lines and a minimum of 250 feet from all public right-of-way. If a solar farm is located on more than one parcel, the setbacks do not apply to the parcel lines shared by those parcels. Setback requirements do not apply to perimeter fencing and greenbelt screening.
- D. Invertors and transformers must be setback a minimum of 500 feet from all parcel lines and a minimum of 500 feet from all public right-of-way. If a solar farm is located on more than one parcel, the setbacks do not apply to the parcel lines shared by those parcels.
- E. Greenbelt screening is required around the perimeter of the solar farm and along any public right-of-way. Greenbelt screening should obscure the solar farm to the greatest extent possible. The greenbelt must consist of shrubbery, trees, or other noninvasive plant species that provide a visual screen. At least 50% of the plants must be evergreen trees that are at least 6 feet tall at the time of planting. All greenbelt screening must be properly maintained.
- F. Lighting of the solar farm must be limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the parcels used for the solar farm.
- G. The solar farm must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

- H. The solar farm must be enclosed by wildlife-friendly fencing sufficient to prevent unauthorized trespass. Barbed wire is prohibited in perimeter fencing.
- I. The noise generated by the solar farm must not exceed 37 dB(A) Lmax, as measured at any right-of-way or the parcel line of any adjacent non participating parcel.
- J. All power transmission or other lines, wires, or conduits within the solar farm must be located underground.
- K. Knox boxes containing keys, contact information, and solar farm schematics must be provided at all gated entrances for emergency personnel access.
- L. Solar farms must obtain and operate in accordance with all necessary federal, state, county, and Township permits and approvals.
- M. Solar farms must operate in accordance with all applicable federal, state, county, and Township laws, ordinances, codes, rules, and regulations.
- N. The solar farm should be designed, planted, and maintained to achieve an overall score of at least 76 on the Michigan Pollinator Habitat Planning Scorecard for Solar sites, as amended. Any plantable portion of the solar not included in pollinator plantings must be maintained in accordance with United States Department of Agriculture – Natural Resource Conservation Service Conservation Cover Standard 327, as amended.
- O. All existing drainage and irrigation infrastructure must be properly maintained in working order.
- P. If the solar farm experiences a failure, leakage of hazardous materials, personal injury, or other catastrophic event, the permit holder must notify the Township within twenty- four hours.

**Section 8. Decommissioning Financial Security.**

- A. To ensure proper removal of each solar farm structure when it is abandoned, the applicant or permit holder must obtain financial security.
- B. The security must be in the state of Michigan and be in the form of 1) cash deposit or 2) performance (surety) bond selected by the Township board and bonded by a top institution from the Department of Treasury's Listing of Approved Sureties- Department Circular 570, T-list. The duration of the security will be termed to the removal of all solar farm-related structures, equipment, and fencing.
- C. The security must be based on the solar farm being permitted and is to be backed by owner assets, operator assets, parent company assets, and leaseholder assets approved by the Township board.
- D. The amount of each solar farm security guarantee (surety) will be the average of at least two independent (of the applicant) demolition (removal) quotes, obtained by the applicant and approved by the board, plus 20%. Quotes will not include salvage values.

- E. The security guarantee will be updated every five years at the rate of 1.5 times CPI (consumer price index) for each year. The security guarantee will not be less than \$800,000.00 per permitted solar farm.
- F. Financial security must be deposited or filed with the Township Clerk after a Township permit has been approved by the Township board but before construction operations begin on the solar farm project.

Section 9. Road Repair Financial Security.

- A. In addition to complying with any requirements imposed by the Hillsdale County Road Commission for use of public rights-of-way, the applicant or permit holder must post with the Township Financial security in the form of a surety bond from a surety company that is listed as an acceptable surety on Federal Surety Bonds in circular 570 of the U.S. Department of Treasury, or irrevocable letter of credit from, or an escrow account established in, a financial institution licensed in the State of Michigan for the cost of repairs of Hillsdale County roads within the Township, in an amount of at least \$500,000.00.
- B. The type, form, wording and amount of the surety bond or other security must be approved by the Township. The amount and standards for road repair work shall be determined by a third-party inspector appointed by mutual agreement of the Township, the applicant or permit holder, and Hillsdale County Road Commission.
- C. The bond or other security will only be release (in whole or in part) when the Township Board, in consultation with the Hillsdale County Road Commission and said third-party inspector, determines that all required road work has been completed and approved by the road inspector in consultation with the Hillsdale County Road Commission and/or MDOT.
- D. The Township may consult with the third-party road inspector to verify the proposed bond or another security amount of \$500,000.00 or more. If the third-party inspector determines that the amount needed for road repairs and upgrades is higher, the applicant will post financial security in the amount determined by the third-party inspector. All road repairs must be completed within ninety days of solar farm construction completion or maintenance completion but may not exceed 365 days from the commencement of such construction or maintenance.

Section 10. Insurance Requirements

- A. Insurance is a pre-condition to commencement of construction and operations and a pre-condition to the right to continue operations. Insurance must be maintained in full force from the issuance of the Township permit through final decommissioning.

- B. The applicant or permit holder must provide personal injury and property damage insurance for the solar farm to be carried by an insurance company licensed to do business in the State of Michigan insurance to name the Township, its officers, and employees as co-insureds or additional insureds. This insurance must be carried in amounts of no less than One Million Dollars (\$1,000,000.00) for injury and damage arising out of a single occurrence. This insurance must cover injury or damage occurring upon the site of the operations, as well as injuries or damage occurring upon adjoining parcels as the result of conditions or activities conducted upon the solar farm parcels.
- C. The insurance certificate must contain a clause stating that coverage may not be canceled, revoked, or modified without a minimum of thirty days' notice to the Township.

Section 11. Decommissioning.

- A. A solar farm must be fully decommissioned within 180 days of abandonment.
- B. Decommissioning requires the complete removal of all solar farm components, including but not limited to, structures; equipment including but not limited to transformers, invertors, and photovoltaic panels; signage; fences; and power transmission or other lines, wires, or conduits. The parcels previously comprising the solar farm must be returned to a natural state.
- C. The Township may utilize the performance guarantee or other security posted by the applicant for the decommissioning of the solar farm if the permit holder does not fully effectuate the decommissioning as required in section 11.

Section 12. Joint and several Liability.

The permit holder and landowner are jointly and severally liable and responsible for ensuring compliance with this Ordinance.

Section 13. Violation and Penalty

- A. A violation of this Ordinance constitutes a municipal civil infraction punishable by a fine of not less than one thousand dollars (\$1000) and not more than ten thousand dollars (\$10,000) in addition to costs of prosecution and any other costs permitted at law.
- B. Each day during which any violation continues is deemed a separate offense.
- C. A violation of this Ordinance is also declared to be a nuisance per se subject to abatement.
- D. Nothing in this section 13 precludes the Township from pursuing other remedies available at law or equity.

Section 14. Enforcement.

The Hillsdale County Sherriff's Department, The Michigan State Police, the Township Ordinance Enforcement officer, and any other individual or entity designated by resolution of the Township Board are authorized to enforce this Ordinance.

Section 15. Conflict.

- A. Nothing in this Ordinance will be construed in such a manner so as to conflict with existing Township ordinances except as otherwise stated herein.
- B. Nothing in the Ordinance shall be construed in such a manner so as to conflict with federal law or any law of the State of Michigan.

Section 16. Repealer.

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

Section 17. Saving Clause.

The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason by a court of competent jurisdiction, such declaration does not void any or render inoperable any other part or portion of this Ordinance.

Section 18. Effective Date.

This Ordinance is effective upon the expiration of the 30<sup>th</sup> day following its publication in the manner required by law:

The vote to adopt this Ordinance was as follows:

YEAS: C. Magda, M. Wallen, T. Miller, G. Nye + J. Leedy

NAYS: none

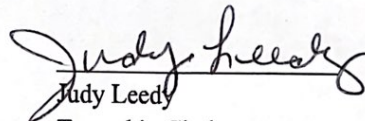
ABSENT/ABSTAIN: none

ORDINANCE DECLARED ADOPTED.



Todd Miller  
Township Supervisor



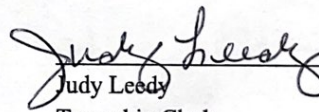
  
Judy Leedy  
Township Clerk

**CERTIFICATION**

I hereby certify that the above is a true copy of an Ordinance adopted by the Scipio Township Board at the date, time, and place as specified above, pursuant to the required statutory procedures.

Adopted:  
Published:  
Effective:

Respectfully submitted

  
Judy Leedy  
Township Clerk