

COHOCTAH TOWNSHIP

ORDINANCE NO. 26-01

**AN ORDINANCE TO AMEND THE ZONING
ORDINANCE TO REGULATE ESSENTIAL SERVICES**

THE TOWNSHIP OF COHOCTAH ORDAINS:

Section 1. Amendment of Section 16.19 of the Zoning Ordinance: Essential Services.

Section 16.19 of the Zoning Ordinance, entitled “Essential Services,” is amended in its entirety to read as follows:

A. General Regulations.

1. Essential services shall include the erection, construction, alteration or maintenance by public utilities, municipal departments, or other governmental agencies of underground or overhead gas, electrical, communication, steam, or water transmission or distribution systems or collection, supply or disposal systems, including electric power stations, relay stations, switching stations, gas regulator stations, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and other similar facilities, equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication, or manufacture of materials used by such utilities or municipal departments or other governmental agencies.
2. No such building constructed as a part of an essential service shall be used for human occupancy.
3. All essential services must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes.
4. If an applicant, owner, or operator of an essential service fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. 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.
5. The surface of land used for pipeline rights-of-way and underground equipment or structures shall be restored and maintained as near as possible to its original conditions prior to the construction of the pipeline.

6. Essential services in all districts shall meet the requirements of the SR Residential District for all buildings, structures, and areas used for offices, power generators, power transformers, electric substations and electric switching stations, storage, fabrication or manufacture of materials necessary to the provision of essential services.
7. Electrical Substations and Electrical Switching Stations must also comply with the requirements of Section 13.28. If a conflict exists between the requirements of the SR Residential District and Section 13.28, the more restrictive regulation controls.

Section 2. Addition of New Section 13.28 to the Zoning Ordinance.

New Section 13.28 is added to the Zoning Ordinance, and reads in its entirety as follows:

Sec. 13.28. Electrical Substations and Electrical Switching Stations.

Electrical substations and electrical switching stations require Special Land Use approval in accordance with Article 13 and Site Plan Review in accordance with Article 20. Electrical substations and electrical switching stations are also subject to the following requirements.

- A. *Special Land Use Permit Application Requirements.* In addition to the requirements of Article 13, the applicant for an electrical substation or electrical switching station must provide the Township with all of the following:
 1. The name of the applicant, any parent company, subsidiary of the parent company, or any entity “doing business as” of the parent company.
 2. Application fee in an amount set by resolution or fee schedule approved by the Township Board.
 3. The Applicant shall deposit funds in an escrow fund with the Township. The escrow is used to cover all costs and expenses associated with the special land use and site plan 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. The Township Board may from time to time by resolution set the initial escrow amount. 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.

4. A list of all parcel numbers that will be used by the electrical substation or electrical switching station including applicable attachments, establishing ownership of each parcel, with memoranda of all lease agreements, easements, or purchase agreements for the subject parcels. All agreements related to the use of the subject parcels and not defined as confidential under Michigan law must be recorded with the Livingston County Register of Deeds.
5. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
6. 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 must identify its plan for providing those resources.
7. A written description of the fire suppression system that will be installed, which must identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.
8. Current ground and aerial photographs of the property, including both a physical and electronic copy of the photographs.
9. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
10. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation.
11. An attestation that the applicant will indemnify and hold the Township, its elected and appointed officials, employees, volunteers, and agents harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the electrical substation or electrical switching station. The Township shall be named as an additional insured for such indemnity.
12. A ground cover vegetation establishment and management plan that complies with this ordinance.
13. 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 (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the application

is considered by the Township.

14. A groundwater analysis of all parcels in the participating property.
15. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

B. *Site Plan Application Requirements.*

1. *Contents of Site Plan.* In addition to the requirements in Article 20, the applicant must provide a boundary survey by a surveyor licensed in the State of Michigan of the project and a detailed site plan draft to a scale of 1" = 200 feet with the following:
 - a. Location of all existing and proposed structures, equipment, electrical tie lines, transmission lines, transformers, inverters, substations, security fencing, and all other components of the electrical substation or electrical switching station within the participating property and all dwellings and/or structures within 1000 feet of the property lines of the participating property.
 - b. Depiction (to scale) of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access drives, and road rights of way.
 - c. Plan for any land clearing and grading required for the installation and operation of the electrical substation or electrical switching station.
 - d. Plan for ground cover establishment and management.
 - e. Description of measures to be taken to support the flow of rainwater and/or stormwater management.
 - f. Security plan detailing measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance, or repair of the electrical substation or electrical switching station.
 - g. A maintenance plan, including landscaping upkeep, regular checks, and maintenance for the equipment, and decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the electrical substation or electrical switching station is decommissioned. The maintenance plan must include a plan for maintaining all setback areas.
 - h. Anticipated construction schedule, including timeline to completion and scope of work.
 - i. Sound modeling study including sound isolines extending from the sound

sources to the property lines.

- j. Any additional studies requested by the Planning Commission, including but not limited to the following:
 - i. Visual Impact Assessment: A technical analysis by a third- party qualified professional acceptable to the Township 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.
 - ii. Environmental Analysis.
 - (a) The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified in the analysis.
 - (b) The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply 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.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).
 - (c) Wildlife Impact: A wildlife impact study, including an analysis of the impact on the properties within one mile of the project.
- k. Electrical substations or electrical switching stations are not permitted on property enrolled in the Farmland and Open Space Preservation Act, being in PA 116, of 1974, now codified in Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1974, as amended. However, a Site Plan may be approved for such property, conditioned upon relinquishment of the PA116 agreement by the Michigan Department of Agriculture and Rural

Development.

- l. *Conceptual Layout Plan.* Applicants may submit an optional conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan may be reviewed by the Planning Commission to allow for discussion and feedback.
- m. *Approvals from Other Agencies.* Final site plan approval and building permits may be granted only after the applicant receives (1) all required federal and state approvals, and (2) approval by the local fire chief, county drain commissioner, county road commission, local airport zoning authority (if applicable), county building department, and any other federal, state or local agency having jurisdiction or authority to grant permits related to the electrical substation or electrical switching station, including NERC and FERC.
- n. *Application Items as Substantive Requirements.* The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for an electrical substation or electrical switching station. The Planning Commission will review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission may deny approval on that basis.

C. *System and Location Requirements.*

1. Electrical substations or electrical switching stations are only permitted within the Renewable Energy Systems Overlay District.
2. Electrical substations and electrical switching stations must be set back at least 250 feet from the nearest property line of any non-participating property at the time of application. In addition, if a non-participating dwelling is within 500 feet of said setback, the setback must be increased to maintain 500 feet from said dwelling. If a single electrical substation or electrical switching station is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the electrical substation or electrical switching station is located, then the lot-line setbacks of this subsection do not apply to the lot lines shared by those lots. All property in the setback areas, if not farmed, shall be maintained as defined in a maintenance setback plan acceptable to the Township.
3. Electrical substations and electrical switching stations must be set back at least 100 feet from the edge of any wetland, shoreline, or drain easement. The Planning Commission may increase this setback requirement up to 200 feet if the Planning Commission determines that such a setback is necessary to protect the public health, safety, and welfare.
4. The height of the electrical substation or electrical switching station and any

accessory structures, and related equipment must not exceed 25 feet. Lightning rods shall not exceed 25 feet in height or the height of the substation or switching station, whatever is less, and shall not be any greater than necessary to protect the electrical substation or electrical switching station from lightning.

5. *Permits.* All required county, state, and federal permits must be obtained before final site plan approval and before the electrical substation or electrical switching station begins operating.
6. *Screening.* Greenbelt screening is required around any electrical substation or electrical switching station and around any equipment associated with the same to obscure, to the greatest extent possible, the electrical substation or electrical switching station from any adjacent residences, as described below, or as otherwise approved by the Planning Commission:

- a. The screening shall be installed to obscure the electrical substation or electrical switching station and shall contain two rows of staggered evergreen trees, as part of an earth berm, planted not more than twelve (12) feet apart trunk to trunk, and the two rows shall be no greater than ten (10) ft apart. The Township may consider an alternative landscape buffer as a part of the special land use approval, provided the alternative provides adequate screening. The screening shall be as near as possible to the property lines of the subject parcel(s).

The berm may be required to reduce noise levels surrounding all electrical substation or electrical switching station. The berm must be no more than 10 feet from the outermost sound-producing components, must be at least as tall as sound producing components, but not more than three feet taller than the height of the tallest sound producing component. Berms shall be engineered with drainage so they shall not adversely impact drainage on subject parcel and do not cause damage or other water flow to neighboring properties.

- b. Plantings shall be least eight (8) feet tall at time of planting and shall reach a height of ten (10) feet within three (3) growing seasons.
- c. The trees may be trimmed but must maintain a height of at least eighteen (18) feet.
- d. Evergreen trees shall be Norway Spruce or such alternative approved by the Township.
- e. Good husbandry 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 must be replanted in a manner consistent with this Section at the next appropriate planting time.

- f. Front, side, and rear yard screening is required if the electrical substation or electrical switching station is adjacent to a non-participating property.
7. **Noise.** The noise generated by the electrical substation or electrical switching station must not exceed 40 dBA Lmax, as measured at the property line of any adjacent parcel. This limit shall specifically include any standby / emergency power sources.
8. **Appearance.** The exterior surface of an electrical substation or electrical switching station must be generally neutral in color and substantially non-reflective of light.
9. **Agricultural Preservation and Habitat Impact.** Land clearing and clear-cutting trees and other vegetation shall be limited to what is minimally necessary for installation and operation of the electrical substation or electrical switching station given the topography of the land. Topsoil distributed during preparation shall be retained on site. In addition, access drives shall be designed to minimize extent of soil disturbance, water run-off, and soil compaction.
10. **Lighting.** Lighting of the electrical substation or electrical switching station must be down facing and is limited to the minimum light necessary for safe operation. Lighting shall not be more than 15 feet taller than the maximum height of any component of the structure(s) and in no case shall lighting be taller than 50 feet. Illumination or shadows from any lighting must not extend beyond the perimeter of the lot(s) used for the electrical substation or electrical switching station, except as otherwise mandated by law.
11. **Signage.** Signage is not permitted except as required in this subsection and for purposes of posting information that may be necessary for electrical operations and the safety and welfare of the public. An information sign shall be posted and maintained at the entrance(s) listing the name, address, and phone number of the operator.
12. **Security Fencing.** Security fencing is required around all electrical equipment related to the electrical substation or electrical switching station. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the electrical substation or electrical switching station. Required fencing must be at least seven feet tall and compliant with NERC and FERC regulations.
13. **Drain Tile Inspections.** The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before construction of any part of the electrical substation or electrical

switching station occurs. The applicant or operator must submit proof of the inspection to the Township and Livingston County Drain Commission. Any damaged or inoperable tile shall be repaired prior to construction. After the electrical substation or electrical switching station is operational, the owner or operator must repair any damage or failure of the drain tile within 30 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. Documentation of repairs shall be submitted to the property owner, the township, and the Livingston County Drain Commission and must indicate the location, nature, and satisfactory completion of the repairs.

14. *Groundwater Analysis.* The operator of the electrical substation or electrical switching station must provide a groundwater analysis for the property(ies) annually.
15. *Access Routes.* Access drives are subject to the approval of the Livingston County Road Commission and the Township Planning Commission. Access drives must be adequately maintained for emergency vehicle use, even in winter.
16. *Construction.* Construction or maintenance of the electrical substation or electrical switching station may only occur between 7:00 a.m. and 6:00 p.m. Monday through Friday, excluding federal holidays. Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a electrical substation or electrical switching station shall be repaired at the applicant's expense.
17. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$10 million per occurrence. All insurance policies shall name the Township as an additional insured and shall be reviewed by the Township Attorney.
18. *Extraordinary Events.* If the electrical substation or electrical switching station 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.
19. *Transferability.* A special use permit for an electrical substation or electrical switching station is transferable to a new owner or operator. The new owner or operator 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.
20. *Lease.* If the participating property is proposed to be leased, instead of owned, by the owner or applicant of the electrical substation or electrical switching station, all subject parcels must be included in a recorded easement(s), lease(s), or consent

agreement(s) specifying the applicable uses for the duration of the uses. All necessary leases, easements, or other agreements between the electrical substation or electrical switching station owners or applicant and the property owners must be in place prior to commencing construction.

21. *Site Plan Amendments.* Site plan amendments may be permitted pursuant to Article 20 of the zoning ordinance, except the following shall not be considered a minor amendment by the Planning Commission: changes of the location of structures, fencing, buildings, or ancillary equipment by 10 feet or more.
 22. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. 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.
 23. *Retention Pond:* Retention pond(s) shall be included on the parcel and shown on the site plan. The retention pond shall be engineered to maintain a permanent pool of water and provide adequate capacity for storm events, as determined by the Drain Commission or other qualified expert acceptable to the Planning Commission.
- D. Electrical Substations and Switching Stations under Public Act 233.
1. As long as PA 233 of 2023 is in effect, Electrical Substations and Switching Stations that are proposed as part of a solar, wind, or energy storage system that is of the requisite size to qualify for a siting certificate from the Public Service Commission are exempt from this Section to extent that this Section conflicts with the Township's applicable Compatible Renewable Energy Ordinance and is more restrictive than Section 226(8) of PA 233. It is the Township's intent to maintain the enforceability of its Compatible Renewable Energy Ordinances to the maximum extent feasible under state law.

Section 3. 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 6. Repealer.

All ordinances are parts of ordinances in conflict with this Ordinance are repealed, but only to the extent that a conflict between provisions exists.

Section 7. Effective Date.

This Ordinance takes effect upon the expiration of seven days after publication, as provided by law.

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