

ORDINANCE NO. 112 - 37 Deerfield Township, Livingston County, Michigan

An Ordinance to amend Ordinance No. 112, as amended, commonly referred to as the 2002 Deerfield Township Zoning Ordinance, to add, delete or otherwise revise provisions pertaining to the Compatible Renewable Energy Ordinance (CREO) provisions of Public Act 233 of 2023.

APPROVED
JAN 09 2025

SECTION 1

The Deerfield Township 2002 Zoning Ordinance is amended by the addition of Lines 8, 9, and 10, under "Other Uses Not Listed Above" in Table 10-2, to read as follows:

DEERFIELD TOWNSHIP

PRINCIPAL USES ^{1,2}		ZONING DISTRICTS					
		P-1	A-1	A-2 A-3 A-4	R-1	R-2	R-3
Other Uses Not Listed Above^{1,2}							
8	Solar energy facilities subject to PA 233 of 2023. ⁷	BR	BR	BR	BR	BR	BR
9	Wind energy facilities subject to PA 233 of 2023. ⁷	BR	BR	BR	BR	BR	BR
10	Energy storage facilities subject to PA 233 of 2023. ⁷	BR	BR	BR	BR	BR	BR

SECTION 2

The Deerfield Township 2002 Zoning Ordinance is amended by the addition of Footnote 7 to Table 10-2, to read as follows:

"7. See Art. 11 regarding energy and energy storage facilities authorized by PA 233 of 2023. This authorization shall not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect."

SECTION 3

The Deerfield Township 2002 Zoning Ordinance is amended by the addition of Lines 4, 5, and 6 under "Other Uses Not Listed Above" in Table 10-3, to read as follows:

PRINCIPAL USES		ZONING DISTRICTS			
		R-MF	R-MHC	B-1	I-1
4	Solar energy facilities subject to PA 233 of 2023. ³	BR	BR	BR	BR
5	Wind energy facilities subject to PA 233 of 2023. ³	BR	BR	BR	BR
6	Energy storage facilities subject to PA 233 of 2023. ³	BR	BR	BR	BR

SECTION 4

The Deerfield Township 2002 Zoning Ordinance is amended by the addition of Footnote 3 to Table 10-3, to read as follows:

"3. See Article 11 regarding energy facilities authorized by PA 233 of 2023. This authorization shall not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect."

SECTION 5

The Deerfield Township 2002 Zoning Ordinance is amended by the deletion of subsection 17.27(A) and the insertion of a new subsection (A), to read as follows:

"A. Application Requirements: An application for a commercial WECF shall be accompanied by a site plan according to Article 4 including the identification of the proposed location of wind turbines, underground and overhead wiring including wiring depths, substations and accessory structures; the location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above-ground structures associated with the WECF; and engineering data concerning construction of the turbine towers and bases. In addition to the submittal requirements of Article 4, the following supplemental information shall be provided. Where the application is for a wind energy conversion test facility only, the designated approving body may waive any of the submittal requirements where it determines such information is not necessary in evaluating the application solely for testing purposes based on the character of the site, surrounding conditions, and the nature of the test tower. On or after November 29, 2024, if PA 233 of 2023 is in effect, an applicant may voluntarily opt to submit an application for a Large SES according to Article 11, Compatible Renewable Energy Ordinance, instead of applying under this Sec. 7.27. This option shall not be available if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect."

SECTION 6

The Deerfield Township 2002 Zoning Ordinance is amended by the deletion of subsection 17.30(B)(3) and the insertion of a new subsection (3), to read as follows:

- 3. Large SES: Large SES are permitted as accessory and principal uses and structures, constitute a special land use, and are authorized in the A-1 District only. Large SES are subject to the special land use review and approval provisions of Article 5.
 - a. On or after November 29, 2024, if PA 233 of 2023 is in effect, an applicant may voluntarily opt to submit an application for a Large SES according to Article 11, Compatible Renewable Energy Ordinance, instead of applying under this Sec. 17.30. This option shall not be available if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect."

SECTION 7

The Deerfield Township 2002 Zoning Ordinance is amended by the deletion of Article 11, Reserved for Future Use, and the insertion of a new Article 11, Compatible Renewable Energy Ordinance, to read as

**"Article 11
Compatible Renewable Energy Ordinance (CREO)**

Section 11.01 Definitions

- A. For the purpose of this Article, the following terms and phrases shall have the corresponding definition.
 - 1. Affected local unit: A unit of local government in which all or part of a proposed energy facility will be located.
 - 2. Aircraft detection lighting system: A sensor-based system designed to detect aircraft as they approach a wind energy facility and that automatically activates obstruction lights until they are no longer needed.
 - 3. Certificate: A certificate issued for an energy facility by the Michigan Public Service Commission under MCL 460.1226(5).
 - 4. Compatible renewable energy ordinance: 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.
 - 5. Construction: Any substantial action taken constituting the placement, erection, expansion, or repowering of an energy facility.
 - 6. Dark sky-friendly lighting technology: A light fixture that is designed to minimize the amount of light that escapes upward into the sky.
 - 7. Energy facility: An energy storage facility, solar energy facility, or wind energy facility. An energy facility may be located on more than one (1) parcel of property, including noncontiguous parcels, but shares a single point of interconnection to the grid.

8. Energy storage facility: 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:
 - a. Fossil fuel storage.
 - b. Power-to-gas storage that directly uses fossil fuel inputs.
9. Independent power producer ("IPP"): 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. Light intensity dimming solution technology: Obstruction lighting that provides a means of tailoring the intensity level of lights according to surrounding visibility.
11. Light-mitigating technology system: An aircraft detection lighting system, a light intensity dimming solution technology, or a comparable solution that reduces the impact of nighttime lighting while maintaining night conspicuity sufficient to assist aircraft in identifying and avoiding collision with the wind energy facilities.
12. Maximum blade tip height: The nominal hub height plus the nominal blade length of a wind turbine, as listed in the turbine specifications provided by the turbine manufacturer. If not listed in the wind turbine specifications, maximum blade tip height means the actual hub height plus the actual blade length.
13. Nameplate capacity: 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.
14. Nonparticipating property: A property that is adjacent to an energy facility and that is not a participating property.
15. Occupied community building: 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.
16. Participating property: 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 facility is constructed on the property.
17. Person: 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.
18. Repowering: 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.
19. Solar energy facility: 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.
20. Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy facility casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.
21. Sound Pressure: The difference at a given point between the pressure produced by sound energy and the atmospheric pressure, expressed as pascals (Pa).
22. Wind energy facility: A system that captures and converts wind into electricity, for the purpose of sale or for use in locations other than solely the wind energy facility property, and with a nameplate capacity of 100 megawatts or more. Wind energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: wind towers; wind turbines; 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; monitoring and recording

equipment and facilities; erosion control facilities; utility lines and installations; generation tie lines; ancillary buildings; wind monitoring stations; and accessory equipment and structures.

Section 11.02 Application Process to Construct an Energy Facility

A. Application Process: The following process shall be followed in the case of 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:

1. **Application Requirements:** 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.
2. **Initial Meeting:** 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 project 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.
3. **Notification of CREO:** Within 30 days following the meeting described in subsection (2), 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.
4. **Permitted by Right Approval:** An application for an energy facility under this Article shall be processed as a use "Permitted by Right" subject to the procedures, standards, and requirements of this Article. The Township Board, following receipt of a Planning Commission recommendation, shall approve or deny the application within 120 days after the Township Clerk receives a complete application. This deadline may be extended by up to 120 days if jointly agreed upon by the Township Board and the applicant.

Section 11.03 Application Information.

The energy facility application shall include, at a minimum, all of the following:

A. Applicant: The application shall include all information required by PA 233 of 2023 and the MPSC, including the complete name, address, and telephone number of the applicant.

B. Timing of Construction: An application for an energy facility shall contain the planned date for the start of construction and the expected duration of construction.

C. Description of Energy Facility: An application for an energy facility shall include a description of the energy facility, including a site plan as described in Section 224 of the Clean and Renewable Energy Waste Reduction Act, 2008 PA 295, MCL 460.1224. The following items shall be shown on the site plan:

1. **Properties Map:** A map of all properties upon which any component of a facility or ancillary feature would be located, and for wind energy systems, all properties within two thousand (2,000) feet of such properties, and for solar energy or energy storage systems, all properties within one thousand (1,000) feet. This should indicate the location of all existing structures and shall identify such structures as occupied or vacant.
2. **Lot Lines/Setbacks:** Lot lines and required setbacks shown and dimensioned.
3. **Water Utilities:** Size and location of existing and proposed water utilities, including any proposed connections to public, or private community sewer or water supply systems.
4. **Transmission Lines:** A map of any existing overhead and underground major facilities for electric, gas, telecommunications transmission within the facility and surrounding area.
5. **Water Drainage:** The location and size of all surface water drainage facilities, including source, volume expected, route, and course to final destination.
6. **Sound Impacts:** A map depicting the proposed facilities, adjacent properties, all structures within participating and adjacent properties, property lines, and the projected sound isolines along with the modeled sound isolines including the statutory limit.
7. **Sensitive Receptors:** For wind energy systems, a map or schematic showing the area including sensitive receptors that will be impacted by shadow flicker for wind facilities, including isolines indicating areas expected to experience 30 hours or more per year of shadow flicker.

- D. Expected Use:** A description of the expected use of the energy facility.
- E. Expected Benefits** Expected public benefits of the proposed energy facility.
- F. Environmental Impacts:** The expected direct impacts of the proposed energy facility on the environment and natural resources and how the applicant intends to address and mitigate these impacts.
- G. Health/Safety:** Information on the effects of the proposed energy facility on public health and safety.
- H. Community Description:** A description of the portion of the community where the energy facility will be located.
- I. Commencement of Operations Statement:** A statement and reasonable evidence that the proposed energy facility will not commence commercial operation until it complies with applicable state and federal environmental laws, including, but not limited to, the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 to 324.90106.
- J. EGLE Statement:** Evidence of consultation, before submission of the application, with the Department of Environment, Great Lakes, and Energy and other relevant state and federal agencies before submitting the application, including, but not limited to, the Department of Natural Resources and the Department of Agriculture and Rural Development.
- K. Soil and Economic Survey:** The Soil and Economic Survey Report under Section 60303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.60303, for the county where the proposed energy facility will be located.
- L. Interconnection Queue:** Interconnection queue information for the applicable regional transmission organization.
- M. Alternatives:** If the proposed site of the energy facility is undeveloped land, a description of feasible alternative developed locations, including, but not limited to, vacant industrial property and brownfields, and an explanation of why they were not chosen.
- N. Signal Impacts:** If the energy facility is reasonably expected to have an impact on television signals, microwave signals, agricultural global position systems, military defense radar, radio reception, or weather and doppler radio, a plan to minimize and mitigate that impact. Information in the plan concerning military defense radar is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by the commission or the electric provider or independent power producer except pursuant to court order.
- O. Stormwater:** A stormwater assessment and a plan to minimize, mitigate, and repair any drainage impacts at the expense of the electric provider or IPP. The applicant shall make reasonable efforts to consult with the county drain commissioner before submitting the application and shall include evidence of those efforts in its application.
- P. Fire/Emergency Plan:** A fire response plan and an emergency response plan providing the same information as required by the Michigan Public Service Commission's application for a certificate for Solar Energy, Wind Energy, and Energy Storage Facilities.
- Q. Decommissioning Plan:** A decommissioning plan that is consistent with agreements reached between the applicant and other landowners of participating properties and that ensures the return of all participating properties to a useful condition similar to that which existed before construction, including removal of above-surface facilities and infrastructure that have no ongoing purpose. The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, but excluding cash. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the energy facility, after deducting salvage value, as calculated by a third party with expertise in decommissioning, hired by the applicant. However, the financial assurance shall be posted in increments as follows:
1. At least 25% by the start of full commercial operation.
 2. At least 50% by the start of the fifth year of commercial operation.
 3. 100% by the start of the tenth year of commercial operation.
- R. Sound Modeling:** A report detailing the sound modeling results along with mitigation plans to ensure sound emitted from the facilities will remain below the statutory limit throughout the operational life of the facilities.
- S. Photometric Plan:** For solar energy systems and energy storage systems, a photometric plan to demonstrate compliance with dark sky-friendly lighting solutions.
- T. Light-Mitigation:** For wind energy systems, light-mitigation plans, including exemptions requested for during the construction period.

U. Flicker Modeling: For wind energy systems, a report detailing the flicker modeling results with mitigation plans to ensure that flicker will remain below the limit listed in Section 11.04 throughout the operational life of the facilities. The report must be prepared by a qualified third party using the most current modeling software available and be based on real world or adjusted case assessment modeling. The report must show the locations and estimated amount of shadow flicker to be experienced at all occupied community buildings and non-participating residences as a result of the individual turbines in the system.

V. NFPA 855: For energy storage systems, evidence of compliance with NFPA 855 including, but not limited to, Commissioning Plan (NFPA 855 Chapters 4.2.4 and 6.1.3.2), Emergency Operation Plan (NFPA 855 Chapter 4.3.2.1.4), and Hazard Mitigation Analysis (NFPA 855 Chapter 4.4).

Section 11.04 Development /Operational Standards

A. In consideration of the application, the Township Board shall approve the application and issue a permit for the requested construction if it complies with the following standards:

1. **Solar Facility:** For a solar energy facility, all of the following:

a. The following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

<u>Setback Element/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.

- b. 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).
- c. Solar panel components do not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.
- d. The solar energy facility does not generate a maximum sound pressure in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
- e. The solar energy facility will implement dark sky-friendly lighting solutions.
- f. 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).

2. **Wind Facility:** For a wind energy facility, all of the following:

a. The following minimum setback distances, measured from the center of the base of the wind tower:

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

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

- c. Each wind tower blade tip does not exceed the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.
 - d. The wind 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.
 - e. The wind energy facility is equipped with functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:
 - 1) The purpose of the exemption.
 - 2) The proposed length of the exemption.
 - 3) A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
 - 4) The technical or economic reason a light-mitigating technology is not feasible.
 - f. The wind energy facility meets any standards concerning radar interference, lighting, subject to subparagraph (v), or other relevant issues as determined by the Township.
 - g. The wind energy facility will comply with any more stringent requirements adopted by the Michigan Public Service Commission as provided for in MCL 460.1226(8)(b)(vii). Before adopting such requirements, the commission must determine that the requirements are necessary for compliance with state or federal environmental regulations.
3. Energy Storage Facility: For an energy storage facility, all of the following:
- a. 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.

- b. The energy storage facility complies with the version of NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems" in effect on November 29, 2024 or any applicable successor standard adopted by the Michigan Public Service Commission as provided for in MCL 460.1226(8)(c)(ii).
- c. The energy storage 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.
- d. The energy storage facility will implement dark sky-friendly lighting solutions.
- e. The energy storage facility will comply with any more stringent requirements adopted by the Michigan Public Service Commission as provided in MCL 460.1226(8)(c)(v).

Section 11.05 Permit Issuance and Compliance

A. Permit Issuance and Initiation of Construction: 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.

B. Continued Compliance: 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.

