TOWNSHIP OF WEARE, OCEANA COUNTY, MICHIGAN

ORDINANCE NO. _____

A TEXT AMENDMENT OF VARIOUS SECTIONS OF THE WEARE TOWNSHIP ZONING ORDINANCE

Adopted Date: _____ Effective Date: _____

An ordinance to protect the public health, safety and welfare of the residents, property owners and other persons within the Township of Weare, Oceana County, Michigan, by amending sections and adding sections to the Weare Township Zoning Ordinance regarding large-scale Solar Energy Systems (which may also be referred to as "SES").

THE TOWNSHIP OF WEARE, OCEANA COUNTY, MICHIGAN ORDAINS:

SECTION 1. INTENT AND PURPOSE

The Township of Weare desires to make revise the Weare Township Zoning Ordinance regarding regulations to permit large scale solar energy systems to accommodate the need for large scale, utility scale, and solar farm development, while protecting the general health, safety and welfare of the residents, property owners, and other persons within the Township of Weare.

SECTION 2. AMENDMENT OF SECTION 2.02.S., DEFINITIONS.

Section 2.02.S., Definitions is amended to add a new set of definitions for "Solar Energy Systems (SES)" with a subcategory of Solar Energy Systems definitions, as follows:

> ***Solar Energy Systems (SES):*** *Solar Energy Systems (SES) consists of solar arrays, collectors or panels, controls, energy storage devices, heat pumps, heat exchangers, inverters, step up transformers, and other materials, hardware or equipment necessary to process solar radiation into another form of energy which can be used, stored, protected from dissipation and distributed. Solar energy systems include temporary construction offices, state regulated substations, standalone energy or battery storage facilities, or other transmission facilities between the SES and the point of interconnection to the electric grid. A complete SES development may be refered to as the Project. The following are more specific definitions within the SES term:*
>
> *A.* ***Small-Scale Ground or Building Mounted SES (ssSES):*** *A solar energy system directly installed on a building, structure or are freestanding on the ground, which covers less than 5 acres.*
>
> *B.* ***Large-Scale, Industrial or Utility Scale SES:*** *A solar energy system, which covers 5 acres or more.*

C. ***Solar Collector or Panel or Array:*** *A solar photovoltaic or solar hot air or water device or structure -- a single unit being a panel or collector, and a collection of such collectors or panels being an array -- all of which rely upon solar radiation as an energy source for the generation of electricity or transfer of stored heat for the direct conversion of solar energy into electricity.*

D. ***Nameplate Capacity****: The designed full-load sustained generating output of a solar energy system provided. It is determined by reference to the sustained output of an SES Project, even if components of the system are located on different parcels, whether contiguous or noncontiguous.*

E. ***Non-Participating Property(ies):*** *One or more lots, parcels or properties impacted by the SES Project who have not a signed a lease or easement, or sold land for development and are adjacent to or within 1000 feet from the property line of the SES. Where the term "adjacent" is used in relation to Non-Participating Properties or other non-SES land uses, it means those properties that are contiguous to, abutting to, or across a public or private road from the SES.*

F. ***Participating Property(ies):*** *One or more lots, parcels or properties owned or are under a signed lease or easement for development of the SES Project.*

G. ***Repowering:*** *Reconfiguring, renovating, or replacing an SES to maintain or increase the power rating, or extending the life of the SES within the existing or revised Project footprint.*

H. ***Hybrid Energy Project.*** *Where an SES is established together with another energy facility, such as a wind, battery, or other energy generation and storage system.*

I. ***Battery Energy Storage System (BESS).*** *One or more devices, assembled together, capable of storing and discharging electricity primarily intended to supply electricity On-Site or Off-Site to a building or to the electrical grid. This includes, but is not limited to, the following: battery cells or modules; enclosures and dedicated-use buildings; thermal, battery, and energy management system components; and SES accessory equipment and structures.*

SECTION 3. AMENDMENT OF SECTION 5.03, AGRICULTURAL RURAL RESIDENTIAL DISTRICT – AR, SPECIAL LAND USES

Section 5.03 is amended to add a new subsection to the listed Special Land Uses: M, Solar Energy Systems (SES) to read as follows:

M. Solar Energy Systems (SES)

SECTION 4. AMENDMENT OF SECTION 8.03, NEIGHBORHOOD COMMERCIAL DISTRICT – NC, SPECIAL LAND USES

Section 8.03 is amended to add a new subsection to the listed Special Land Uses: G, Solar Energy Systems (SES) to read as follows:

G. Solar Energy Systems (SES)

SECTION 5. AMENDMENT OF SECTION 9.03, HIGHWAY SERVICES DISTRICT – HS, SPECIAL LAND USES

Section 9.03 is amended to add a new subsection to the listed Special Land Uses: D, Solar Energy Systems (SES) to read as follows:

D. Solar Energy Systems (SES)

SECTION 6. AMENDMENT OF SECTION 10.03, LIGHT INDUSTRIAL DISTRICT – LI, SPECIAL LAND USES

Section 10.03 is amended to add a new subsection to the listed Special Land Uses to read as follows:

F. Solar Energy Systems (SES)

G. Large-Scale Battery Energy Storage Systems (BESS). (Reserved)

SECTION 7. AMENDMENT OF SECTION 13.02, APPLICATION AND REVIEW PROCEDURES

Section 13.02 is amended to add a new subsection to the Application and Review Procedures: H, Township Board Approval, to read as follows:

H. Township Board approval shall be required for those Special Land Uses following a recommendation by the Planning Commission as provided for in this Section 13.02, subsections A. through G. Where the Planning Commission is deemed to have authority in Section 13.02, subsections F and G, they shall make recommendations to the Township Board who shall have the final decision-making authority in those subsections. The following Special Land Uses shall require Township Board approval:

1. *Large-Scale* Solar Energy Systems (SES), Section 12.04 CC.
2. *Wind Energy Conversion Systems (WECS); Section 12.04 Y.*
3. *Large-Scale Battery Energy Storage Systems (BESS), Section 12.04 DD (Reserved).*
4. *Reserved for Future Use(s).*

SECTION 8. AMENDMENT OF SECTION 12.04 CC, SOLAR ENERGY SYSTEMS (SES) and SECTION 12.04 DD, LARGE-SCALE BATTERY ENERGY STORAGE SYSTEMS (BESS) AS A PLACE HOLDER.

A. Section 13.04 is amended to add a new Section 12.04 CC to provide for Solar Energy Systems Section 12.04 CC to read as follows:

CC. Solar Energy Systems (SES)

1. Intent and Purpose: *To guide the use of solar energy within Weare Township. And to provide for the regulations for the development, installation, construction, and modification of small-scale residential and commercial, and large-scale Solar Energy System (SES) for*

generating facilities within the guidelines and policies established by the Township to protect the public health, safety and welfare in a safe, effective and efficient manner. All Large-Scale SES and Hybrid Energy Projects shall be treated as a Special Land Use under the provisions of this Section 3.04 (CC) and other sections of this Ordinance. Where the application is for a Hybrid Energy Project all SES facilities and components may be included in one application. Each Hybrid facility shall be reviewed for compliance with the appropriate standards of that other energy facility, as appropriate.

2.1A. Application Process for Large-Scale Industrial or Utility-Scale SES:

Any Large-Scale Industrial or Utility-Scale SES Special Land Use approval shall be filed in accordance with Chapter 13 and Subsection 2.1B, below. Copies of the Site Plan and full application shall also be delivered to the County Road Commission, County Drain Commission, Township or County Fire and Public Safety Officials, and County or MSU Agricultural Extension Agent for their review and comments. The application shall be accompanied with fees and escrows, as established by Township Board Resolution. It is strongly recommended that the Owner or Developer meet with the Township staff and or their consultants to review the proposed SES development in advance of filing. The Application shall identify or show the following:

a. (1) The name of all participating landowners, their property lines and parcel numbers. (2) The name and contact information of the SES Developer and SES Owner; along with any agent of the Developer or Owner; and the Owner's financial capacity to support the SES Project as prepared by a licensed professional or a reputable accounting firm, unless otherwise waived by the Township. (3) Where there are multiple property owners, the applicant shall provide a separate table, chart, or other exhibit showing the property owner's name, their parcel number (including any revised parcel number if the Participating Property is split), site plan page number, acreages being developed and left vacant, and totals of both developed and undeveloped lands.

b. Information regarding proposed SES development, including but not limited to the total acreage being developed, total number of acreage being leased or owned, the Nameplate Capacity of the SES Project, the planned date for the start of construction, the expected duration of construction, and the life expectancy of the SES as proposed. In addition, detailed information regarding the Solar Arrays, Inverters and other onsite equipment, including manufacturer's Specification Sheets and Safety Data Sheets for all electrical and solar photovoltaic materials.

c. A description of the expected use of the energy facility and the public benefits and impacts to the Township's community and environment. The application shall identify how the applicant intends to address, eliminate and mitigate these impacts with an environmental impact analysis prepared by a qualified third-party professional. This environmental impact analysis shall include anticipated and potential direct and indirect impacts by identifying: (i) changes in existing ground elevations and grades, soil and tree removal, drainage and agricultural tiling, erosion control, wetlands and waterways, stormwater management,

structure removal; (ii) electromagnetic interference with other adjacent On-Site and Off-Site electric equipment and telecommunication transmissions; (iii) sensitive habitats, wildlife corridors, parks, historic and cultural sites, and threatened or endangered species; and (iv) the results of soil and groundwater testing for a baseline of existing conditions of the SES Project.

d. A fire response plan and an emergency response plan that is deemed acceptable by the County and local fire and emergency response agencies. Such reports shall include details and specification documents for the specific SES facilities on site, including Safety Data Sheets and training manuals. The Developer shall commit to onsite first responder's training before the SES becomes operational and during the course of commercial operations, as necessary to train new public safety personnel.

e. A Sound Modeling Study including sound isolines extending from the sound resource(s) to all dwellings on non-participating properties within 300 feet of the SES property boundary; along with mitigation plans to ensure that sound emitted from the facilities, including any substation, will remain below the regulatory limits throughout the operational life of the facilities.

f. A Waste Management and Decommissioning Plan as described in Subsections (16) and (19).

g. Reports from the County Road Commission, Drain Commission, local or state energy agencies, and agricultural or conservation agents who have reviewed the Application and deem it acceptable. These reports shall be filed before the final Site Plan is approved and forwarded with recommendations to the Township Board.

h. A Complaint Resolution Procedure describing how the Owner or Developer will address and resolve complaints that may arise from the operation of the SES. It shall describe how mediation or arbitration will be used to resolve complaints if needed and include appropriate timelines for response and other detailed information (such as forms and contact information). As a condition of filing a complaint, a landowner must allow the Zoning Administrator or other Township staff, agents, and Board members, along with the SES Developer or Owner or its agents on the subject property for further investigation.

i. Any other information deemed necessary to determine compliance with these requirements.

2.1B. Approval Process for Large-Scale Industrial or Utility SES:

Notwithstanding Section 13.02 (D), all large-scale SES shall be approved by the Township Board after a Planning Commission review and recommendation, as otherwise perscribed in Section 13.02. Such approval shall include any required conditions and other

contingent stipulations and agreements. Any denial of approval shall specify the basis for the action.

2.2. Application and Approval Process for Small-Scale Ground or Building Mounted ssSES:
[RESERVED for Future Use (Small-Scale SES).]

3. Site Plan Review: *The Site Plan for the Special Land Use application shall include all the items listed below, in addition to all the required items for section 11.03, unless otherwise specified or modified in the following standards below:*

a. The scale and survey requirements in Section 11.03 may be modified by the Planning Commission to more adequately show the scale of the Project; and shall be prepared by a Michigan Registered Professional. There shall be at least one page that shows the entire SES Project.

b. Location and height of all proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, access drives, staging areas, and all other above ground structures and utilities associated with the SES. This includes horizontal and vertical elevation to scale drawings with dimensions that show the location of the proposed Solar Array(s) if they differ in various locations. The location of all existing and proposed overhead and underground electrical transmission or distribution lines need only be shown within 100 feet of all exterior property lines of the SES.

c. A map of all properties upon which any component of a facility or ancillary feature would be located, and all Non-Participating Properties within one thousand (1,000') feet identified by property number or address. This should indicate the location of all existing Non-Participating Properties' structures and identify such structures as occupied or vacant.

d. Lot lines and required setbacks shown and dimensioned, including horizontal and vertical elevation drawings that show the location, height type of the SES arrays proposed.

e. The location and size of all surface waters, wetlands, water drainage facilities, and any other sensitive environmental features. The location of proposed properties governed by agriculture easements agreements under Michigan's farmland development rights program (PA 116, as amended).

4A. Setbacks: Large SES Solar Arrays shall be set back the following minimum distances:

a. Exterior Property Lines: Unless otherwise provided in this Section 4.A,, there shall be Sixty-five (65') feet from all exterior SES property lines of the parcel or road right-of-way. Where an SES property abuts another SES parcel there need not be a setback between the adjacent SES panels. But where an abutting SES parcels is removed from the Project, the remaining parcel's Arrays shall be reconfigured to be at least One Hundred (100') feet from the removed parcel.

b. Public Roads: There shall be a sixty-five (65') foot setback from any existing public right-of-ways.

c. Occupied Non-Participating Residential Property(ies): Where the SES is adjacent to a Non-Participating occupied residential property, the setback between the array and the outside wall of any structure of the Non-Participating Residential Property shall be Three Hundred (300') feet; but no less than One Hundred (100') feet from the SES property line.

d. Unoccupied Non-Participating Off Site Property(ies) Adjacent to the SES: At least One Hundred (100') feet from any off-site vacant property line.

e. Waterways, Floodplains, and Wetlands: There shall be a Sixty-five foot (65') setback from any Array.

f. Height: Total height shall not exceed sixteen (16') feet when measured from the ground to the top of the system Array when oriented at maximum tilt. This may be increased to twenty-five (25') feet where agrivoltaic (farming) operations are being actively used. Other structures aside from the solar panels shall not exceed twenty-five (25') feet as measured from the ground to the highest point of the structure.

g. Exceptions: Except as otherwise provided, security fencing, poles and private access roads shall be exempt from these setback requirements.

h. Adjustments: The Planning Commission may modify these standards where it determines based on the physical characteristics, including topography, existing vegetation, and distances between uses that the layout between the adjacent uses requires more or reduced setback to ensure adjacent uses are adequately setback, screened, buffered, or not inconsistent with existing or intended character of the adjacent residential uses.

4B. ssSES Regulations: [RESERVED for Future Use (Small-Scale SES).]

4C. On-Site Battery Energy Storage Systems (BESS) Regulations: *On-Site BESS may be an accessory use where they meet the following additional standards for placement within the SES:*

a. Maximum Energy Storage System and Capacity. An alternative to Lithium-ion batteries shall be first considered before using resorting to that type of battery(ies) system, so as to avoid potential fire danger. Regardless, no one individual BESS module or cell shall exceed 1 mw for the entire On-Site Energy Management System.

b. Setback. Inverters and Battery components shall be located within the interrior of the SES, no closer than 300 feet from perimeter fencing of the SES. Individual battery

groupings shall be setback at least 50 feet from any other battery group for fire control access, as determined by the Township or County Fire and Public Safety Official(s).

c. Landscaping & Screening. Additional screening and fencing may be required for security and visual buffer.

d. The design, operation, and decommissioning of the BESS shall comply with FNPA 855, or its replacement, and be approved by the Township or County Fire and Public Safety Official(s).

e. All other standards for Large-Scale SES shall otherwise apply.

5. Lot Coverage: *A SES is exempt from maximum lot coverage regulations, provided that the SES shall follow the applicable regulations established by the Oceana County Drain Commission; and there will be native vegetation beneath the arrays of solar panels (which may be described as ecovoltaics) that will limit the impact of stormwater runoff.*

6. Agricultural and Forested Lands: *The Township desires to have the SES on more marginal lands. However, it recognizes that agricultural lands and some forested lands are desirable locations for these facilities. Where an SES is located on Prime Agricultural Land as classified by the County or MSU extension agent or other forested lands, the Developer shall identify what mitigated action it is taking to minimize the loss of agricultural production or forested resources. This may include using low-light plantings, wildflowers and sunflowers, bee aperies, animal grazing, and other similar agrivoltaics or ecovoltaics operations.*

7. Screening & Landscaping: *The following screening and landscaping measures are required:*

a. A SES shall be completely enclosed by a perimeter security fencing to restrict unauthorized access. Along all roads such fencing shall be no less than eight (8') feet in height, unless approved by the Planning Commission. Use of barbed wire or electrified fencing is not permitted, unless by the Township. Fencing shall allow wildlife to traverse over or through the area. Fencing more than eight (8) feet may be required to be setback further from the right-of-way where adjacent to residential uses. No fencing shall obstruct the Road Commission's clear vision requirements. Fencing is not required between abutting SES properties.

b. Where a SES array abuts or is across the road from a residential use and such residential use is not adequately screened by natural vegetation, the perimeter of that residential use from the arrays located within 300 feet of the residence shall also be screened and buffered along the adjacent property line by a landscaped earthen berm or installed evergreen, or other non-evasive or existing vegetative plantings, subject to the following requirements, in addition to those Landscaping requirements of Section 3.12 and 3.13:

i. Where a berm is not used, the evergreen or vegetative screening shall be composed of non-invasive vegetation or evergreen trees planted at a minimum of four (4) feet in height and evergreen shrubs four (4) feet in height as approved by the Planning Commission. The Planning Commission may adjust the screening, so as to minimize the views of the SES from any adjacent off-site residence by considering topographic, existing vegetation, location of the nearest array(s), angle of views, and other aesthetic factors. Where a berm is used it shall be landscaped as directed by the Planning Commission to provide similar screening conditions.

ii. All dead or unhealthy planting (being forty percent (40%) or more dead) shall be replaced by the Developer or Owner within one (1) year, or the next appropriate planting period, whichever occurs first.

iii. If the Developer or Owner is unable to plant during the installation period, they may be required to provide a form of security for an amount equal to the cost of any planting deficiencies that the Township shall hold until the next planting season. After all plantings have occurred, the Township shall return the financial guarantee.

iv. Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this Ordinance and any Special Land Use permit may be subject to revocation.

8. Signage: *No advertising or non-Project related graphics shall be permitted on any part of the Solar Arrays or other components of the SES. This exclusion does not apply to entrance gate signage, notifications containing SES contacts, or any other information that may be required by authorities having jurisdiction for electrical operations. These provisions shall not limit signage otherwise permitted in this Ordinance for that Zoning District, except that off-premises billboards advertising products or services are not permitted.*

9. Noise: *No solar generating component of any SES shall emit noise exceeding fifty-five (55) dBA as measured at the SES's exterior property boundary or the existing right-of-way line. Nor shall there be constant or regular noise exceeding fifty (50) dBA as measured at the exterior property boundary or the existing right-of-way line. A transformer or substation shall not exceed industry noise standards or that of the Township's Noise Ordinance, whichever is more restrictive.*

10. Lighting: *All lighting for parking lots, driveways, and external illumination of buildings, or signs shall be dark sky designed to minimize additional light pollution. Lighting fixtures shall use low level, warm colored lighting that is directed down and away from, and shielded from, adjacent properties. Such lighting shall not adversely affect driver visibility on adjacent public roads.*

11. Glare: *All solar array shall be designed to avoid glare and reflection of sunlight and other artificial lighting. SES designs shall comply with Federal Aviation Administration regulations.*

12. Distribution, Transmission and Interconnection: *All collection lines and interconnections within the SES shall be located and maintained underground, except in areas where technical or physical constraints make it a practical difficulty to install equipment below ground. This requirement excludes Off-Site transmission lines and equipment which connect the Project inverters to the Project substation and public utility substation.*

13. Roads: *All access driveways from the public road shall be subject to the Oceana County Road Commission and Michigan Department of Transportation review and comment for routes used by construction and delivery vehicles. Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of an SAS shall be repaired at the Developer or Operator's expense. Any road improvements necessary to accommodate construction vehicles, equipment or other deliveries shall abide by all county requirements. The Township or Road authorities may require a development bond to cover estimated costs related to anticipated road damage or repair as recommended by the Road Commission.*

14. Repowering: *In addition to repairing and replacing components to maintain the system, the SES may at any time be repowered. A new Special Land Use permit is not required when the reconfiguring, renovating, or replacing the SES to increase the power rating within the existing Project footprint. The Developer or Owner shall provide written notice thirty (30) days in advance of any Repowering improvements to the Township Assessor and Zoning Administator. Where there is unexpected or emergency repairs, such notice must be provided within 15 days of the work beginning. However, if at that time the SES has become a nonconforming use under this Ordinance, then the Repowering and any new reconfiguration shall comply with the then current zoning standards for an SES. Except as provided in Subsection15, a proposal to change the Project footprint of an existing SES shall be considered a new application, subject to the Site Plan application requirements and review procedure contained in the Township Zoning Ordinance in effect at the time of the request. The SES Developer or Owner will reimburse the Township for legal services and other studies necessary for an application in compliance with the Township's escrow policy.*

15. Conditions and Modifications: *The Planning Commission and Township Board shall ensure that all the standards of this Section 13.04 CC are satisfied. The Planning Commission may, in addition to these standards and requirements, make recommendations to the Township Board to modify those requirements where circumstances warrant, or require other reasonable conditions and improvements that are necessary. All conditions and modifications shall be shown to be in relation to and consistent with the nature of the applicable or adjacent surrounding uses and the zoning districts. If any conditions or modifications are approved, they shall be recorded in the appropriate meeting minutes. The applicant or any successor in interest may amend the SES with the Township Board,*

who shall determine if a full Special Land Use approval is required or if administrative approval can be made by the Zoning Administrator. Where there is a reduction in the approved Site Plan, which does not add new Arrays, other SES facilities, or terms, such administrative approval may be made by the Zoning Administrator, who shall advise the Planning Commission and Township Board before approval is granted.

16. Decommissioning and Abandonment: *At the time commercial operations have begun and when commercial operations have ended for the SES Project or portions of the Project, the following shall apply:*

a. The Developer shall provide a Decommission Plan at the beginning of commercial operation and at least once every five years thereafter, in addition to any Repowering or Assignment and Transfers of the Project. This shall include a description of which above-grade and below-grade improvements will be removed, retained (e.g., access drive, fencing), or restored for viable reuse of the property consistent with the zoning district. It shall estimate the life of the SES including conditions for decommissioning, and the estimated costs in current dollars. Salvage value shall not be included in the cost to decommission the Project. Such security shall be posted in accordance with the provisions of Section 21 below. A Memorandum of this Decommissioning Plan shall be recorded with the Oceana County Registers of Deeds on all the properties developed for the SES.

b. Following the operational life of the Project or parts of the SES, the SES Owner shall provide a revised Final Decommission Plan. Following Township Board's approval of the Final Decommission Plan the SES Owner shall decommission and remove all components or those parts scheduled for decommissioning in accordance with the final Plan.

c. The decommissioning work shall ensure that all structures, concrete, piping, facilities and other Project related materials above grade and up to four (4') feet below grade are removed off site and properly disposed. Soil and groundwater tests shall be completed by a licensed professional and are to be measured against the baseline test soil and groundwater tests made with the Application. Specifically, where panels or other facilities have been damaged and could leave hazardous substances or materials, those areas must be specifically tested. Access drives and roadbeds shall be removed, if it is necessary to return the property to cultivation or other use, unless requested otherwise.

d. Where any Solar Array or SES that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Township Board shall hold a show cause hearing as to why the SES component should be removed as provided under the Decommissioning Plan.

e. The decommissioning shall be completed, and the ground must be restored within one year from the date of abandonment, which may be extended by the Zoning Administrator for up to one additional year.

17. Approval Time Limit and Extension: *Material construction of the SES shall begin within three years of the approval of any Special Land Use Permit and Site Plan or other permits. But, if requested by the Developer or Owner prior to that expiration date, the Zoning Administrator may extend that approval or permit(s) for up to an additional two years. Where any township or county permitting agency is deemed not applicable or available, then the Owner or Developer shall certify that those otherwise required permitting requirements have been fully satisfied and will warrant their compliance with what would otherwise be required. The Owner or Developer shall certify its compliance with all other state or national standards, including but not limited to the Michigan Construction Code, National Electrical Code, National Fire Code, OSHA standards, and similar nationally established codes or their equivalent.*

18. Inspection: *The Township shall have the right at any reasonable time to inspect the SES to determine compliance with this Ordinance, and to ensure compliance with the Occupational Safety and Health Administration (OSHA), National Electrical Code (NEC), State Building Code, and all other applicable safety guidelines, including soil, water, and noise testing. Where the Township suspects a significant violation, it may hire one or more consultants with notice to the Developer or Owner to assist with inspections. Where the violation is verified the Developer or Owner shall be charged with the inspection's expenses, including reasonable legal fees. Inspections within the SES must be coordinated with Owner or Developer, who may have their staff accompany the inspection.*

19. Waste Management Plan: *Prior to beginning construction or any significant modifications of the SES and with the final Decommissioning Plan, the Developer shall submit a Waste Management Plan describing the methods of waste disposal of the large quantities of glass, cardboard, wood, scrap metal and scrap wire or other unnecessary materials. The Township may require an interim Waste Management Bond or other security to ensure the site(s) are clean if not already provided for in an existing security arrangement.*

20. Maintenance, Repair, and On-Going Testing:

The Developer shall provide a written description of the Maintenance Program for the SES. The description shall include typical maintenance schedules and a description of the maintenance to be performed. The SES must be maintained in good repair and condition, in accordance with the industry standards, at all times. All properties within the SES shall be kept free of refuge, waste or hazardous or unsanitary conditions. If the Zoning Administrator determines that the SES fails to meet the requirements of this Ordinance and the Special Land Use Permit, or that it poses a safety hazard, the Zoning Administrator shall provide notice of the safety hazard or condition. The maintenance, repair or safety hazards must be corrected within a reasonable period, not to exceed 30 days, which may be reduced based on the immediacy of the problem or extended as documented by active corrections, as determined by the Zoning Administrator in consultation with designated emergency professional. If not completed or corrected, the Township may take immediate action, which may include making the repairs or where public safety or emergency conditions warrant, shutting down the SES or portions until the correction is made. The

Township may assess all costs on the Developer or Owner for such enforcement actions and use a portion of any security or escrow being held. The Developer or Owner is entitled to a hearing with the Township Board to address these matters before any Township action is taken, except in cases of public emergency or where life or property are immediately threatened.

21. Continuing Security: *Prior to the start of construction, the Township shall require the Owner or Developer to post a Decommission Security in the form of a surety bond acceptable to the Township Board for any amount necessary to accomplish the work specified in the Decommissioning Plan. The amount shall be reasonably sufficient to restore the property to its previous condition prior to the construction and operation of the SES. In determining the amount of security, the salvage and reclamation value of the components of the SES shall not be applied; however, where other security is required by another agency or entity or other condition in this Ordinance then that amount may be considered for an adjustment. Determining the amount of the security shall also include, but not limited to, the cost estimates established above, along with other risk mitigation factors such as lease contract provisions, financial viability of involved parties and projected electrical demand. Such financial security, bonded or insured, shall be held by a licensed entity with an AAA rating or equivalent. It shall be kept in full force and effect during the entire time that the SES Project exists and through decommissioning. It shall be irrevocable and non-cancelable by the Owner or Developer. Where the Developer takes out the security, it may be assigned to the Owner or other operator, with written notice to the Township, who shall have the sole discretion to approve such assignment, based on an evaluation of the financial capacity of that party to honor the financial security. On or prior to the end of the fifth (5^{th}) calendar year of operation and for every five years thereafter the estimated cost of decommissioning will be reassessed and approved by the Township Board. Where such Township review requires professional evaluation, the Township shall be reimbursed for such review. Failure to keep any required financial security in force and effect while the SES exists shall constitute a material and significant violation of the Special Land Use Permit and this ordinance, subjecting the Developer, Owner and Operator to all remedies available, including any enforcement action, injunctive relief and revocation of the Special Land Use Permit. The security will be released when no longer required.*

22. Development Agreement: *A SES Owner shall enter into a Development Agreement with the Township within 90 days of issuing the permit. This agreement shall require that, upon commencement of any operation, the SES Owner must make a one-time payment to the Township an amount established by the Township Board of no less than $1,000.00 per megawatt of Nameplate Capacity located within the Township. The payment shall be used as determined by the Township for roads, public safety, planning, or other infrastructure projects; or in the case of state regulated SES Projects payment shall be for improvements, facilities, services, or planning related to the SES development.*

23. Recording of Action and Documentation of Compliance: *After Township Board approval, the Owner, Developer or Operator shall provide the following:*

a. At least three (3) copies of the final approved Site Plan, which shall be signed and dated by the Zoning Administrator, the Township Supervisor, and the authorized representative of the Developer or Owner. One copy shall be kept on file by the Township Clerk, one copy by the Zoning Administrator, and one copy shall be returned to the Developer's authorized representative. If the application is denied, written reasons shall be provided to the Developer. The Township shall require that a summary of the decision be recorded in the county records for the Participating Properties.

b. A full set of As Built Construction Plans with the Township Clerk within 90 days of the SES construction completion; or for individual sections of the SES, as they are completed. Included with the As Built Plans shall be information regarding the Manufactures' most current Specifications and Safety Data Sheets for the Solar Arrays and other SES components, along with the Manufacturer's recommended safety measures and procedures. The Developer shall also file testing results for compliance with noise standards for all inverters and substations; and soil and water tests where panels had been damaged and could have leached hazardous materials on the ground.

c. Provide annually the Township Clerk with certification of compliance with the approved Special Land Use Permit; and updated contact information regarding emergency information, operational matters, and ownership, including names and titles, phone numbers, email and physical addresses for all parties involved in the operation of the SES Project.

24. Assignment or Transfers: *No transfer in ownership of the SES shall occur prior to 90 days' written notice and with the sole approval of the Township. Such notice shall include an updated Decommissioning Plan and updated soil, water and noise test results; a certification that the new Owner agrees in writing to carry out the terms of the Special Land Use and Site Plan approvals; and a certification that it has the financial capacity to fulfill all obligations under this Ordinance or that the existing Owner accepts the liability for the actions of the new Owner.*

B. Section 13.04 is amended to add a new Section 12.04 DD to provide a place holder for large-scale Battery Energy Storage Systems (BESS):

DD. Large-Scale Battery Energy Storage Systems (BESS). [RESERVED for Future Use (BESS),]

SECTION 9. SEVERABILITY.

This Ordinance and the various part, sections, paragraphs, subsections, sentence, phrase or clause is adjudged, unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by that action.

SECTION 10. NON-REPEAL.

This ordinance shall not be construed to repeal by implication and other Ordinance of Weare Township pertaining to the subject matter.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall take effect upon the expiration of 7 days after publication in a newspaper circulating within the Township of Weare, Oceana County, Michigan.

ORDINANCE ADOPTION

At a _____ meeting of the Weare Township Board held on _____, the above Ordinance was offered for amendment and adoption by Township Board Member _____ and was seconded by Township Board Member _____, the vote being as follows:

YEAS:

NAYS:

Ordinance Declared ADOPTED.

_____ _____
Township Supervisor Date

_____. _____
Township Clerk Date

CERTIFICATION

I hereby certify that this amendment to the Weare Township Zoning Ordinance was adopted by the Weare Township Board at a regular session held on _____, 202__, and that it was published in the _____ on _____, 202__.

_____, Township Clerk