

MARION TOWNSHIP

SOLAR ENERGY ZONING ORDINANCE AMENDMENTS

An amendment to the Marion Township Zoning Ordinance to add definitions related to solar energy, establish a solar farm energy overlay district, establish standards for utility solar energy facilities, and establish standards for private solar energy systems.

Marion Township Ordains:

1. AMENDMENT OF ARTICLE III: DEFINITIONS

Section 3.02 Definitions of the Zoning Ordinance is hereby amended to add the following solar energy definitions which shall read, in its entirety, as follows:

Farmland Preservation Program: The Michigan Farmland Preservation Program, Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1994, also commonly referred to as PA 116.

Solar Energy: The following definitions shall apply in the application of this Ordinance.

1. **Abandonment:** Any solar energy system or facility that is no longer producing power.
2. **Building Integrated Photovoltaics (BIPVs):** A private or utility solar energy system that is integrated into the structure of a building, such as solar roof tiles or solar shingles.
3. **Decommission:** To remove or retire a solar energy system or facility from active service.
4. **Ground-Mounted Solar Energy System:** A private or utility solar energy system that is not attached to or mounted on any roof or exterior wall of any principal or accessory building.
5. **Height:** The height of a solar energy system, measured vertically from the adjacent grade to its highest point at maximum tilt.
6. **Inhabited Structure:** Any existing structure usable for living or non-agricultural commercial purposes, including, but not limited to: working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.
7. **Non-Participating Property:** A property that is not subject to a Utility Solar Energy Facility lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Solar Energy Facility.
8. **Participating Property:** A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity

submitting a Special Land Use Permit application for the purpose of developing a Utility Solar Energy Facility.

9. **Photovoltaic Array (PV Array):** A device designed to collect and transform solar energy into electricity.
10. **Private Solar Energy System:** A Solar Energy System used exclusively for private purposes and not used for commercial resale of energy, except for the sale of surplus electrical energy back to the electrical grid.
11. **Repowering:** Replacing or upgrading Solar Energy System to increase power rating of panels or Solar Energy System accessory structures within the approved project footprint. This does not apply to regular maintenance.
12. **Roof or Building-Mounted Solar Energy System:** A private or utility solar energy system that is attached to or mounted on any roof or exterior wall of any principal or accessory building but excluding BIPVs.
13. **Solar Energy System:** A device designed to collect and transform solar energy into electricity, including but not limited to, PV arrays, racks, inverters, transformers, wiring, batteries, and electrical system components.
14. **Solar Farm:** See Utility Solar Energy Facility.
15. **Utility Solar Energy System or Facility:** A Solar Energy System where the principal design, purpose, or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

2. AMENDMENT OF ARTICLE VII: ZONING DISTRICTS AND MAPS

Section 7.01 Establishment of Districts of the Zoning Ordinance is hereby amended to add SFO Solar Farm Overlay District, which shall read, in its entirety, as follows:

Section 7.01 Establishment of Districts

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names.

RR: Rural Residential District

SR: Suburban Residential District

UR: Urban Residential District

ERS-1: Existing Residential Subdivision District ERS-2:

Existing Residential Subdivision District MHP: Mobile Home Park

HS: Highway Service District

LI: Light Industrial District

PL: Public Lands District

Other Areas

PUD: Planned Unit Development Overlay District

SFO: Solar Farm Overlay District

WPA: Wellhead Protection Area

3. ADDITION OF ARTICLE XII: "SOLAR FARM OVERLAY DISTRICT"

A new Article XII entitled "SOLAR FARM OVERLAY DISTRICT" is hereby added to the Zoning Ordinance which shall read, in its entirety, as follows:

ARTICLE XII: SOLAR FARM OVERLAY DISTRICT

Section 12.01 SFO: Solar Farm Overlay District

- A. Intent:** It is the intent of the Solar Farm Overlay District (SFO) to provide for the location and siting of Utility Solar Energy Facilities to balance the promotion of economic development; to provide for a demonstrated need for energy production in general and solar energy production in particular; to supplement, rather than supplant, agricultural activities while also protecting the public health, safety, and welfare; to mitigate adverse impacts to agricultural lands, natural and environmentally-sensitive areas, and developed residential areas; and to preserve scenic views and cultural heritage. The Solar Farm Overlay District is intended to include areas in proximity to an electrical substation and electrical transmission lines to limit potential impact on other areas and uses within the Township.
- B. Permitted Accessory Uses:**
1. Accessory uses or structures clearly incidental to the operation of an approved Utility Solar Energy Facility.
- C. Uses Permitted By Special Use Permit: (See specific Provisions in Article XVII)**
1. Utility Solar Energy Facilities.

4. AMENDMENT OF ARTICLE XVII: "STANDARDS FOR SPECIFIC SPECIAL USES"

Article XVII STANDARDS FOR SPECIFIC SPECIAL LAND USES of the Zoning Ordinance is hereby amended to add Section 17.35 "Utility Solar Energy Facilities" which shall read, in its entirety, as follows:

17.35 UTILITY SOLAR ENERGY FACILITIES

- A. Intent and Purpose:** The intent and purpose of this Section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility Solar

Energy Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; and ensure compatibility with land uses in the vicinity of the areas affected by such facilities.

B. Locational Requirements: Utility Solar Energy Facilities are permitted by special land use in the SFO Solar Farm Overlay District.

C. Application Requirements:

An applicant proposing a Utility Solar Energy Facility must submit the following additional materials with the Special Land Use Application:

1. Applicant Identification: Applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a Utility Solar Energy Facility shall also be dated to indicate the date the application is submitted to Marion Township.
2. Project Description: A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
3. Insurance: Proof of the general liability insurance to cover the Utility Solar Energy Facility, the Township, and the Landowner.
4. Certifications: Certification that applicant will comply with all applicable state and federal laws and regulations. Land enrolled in the Michigan Farmland Preservation Program must provide confirmation of approval from the Michigan Department of Agriculture to locate a Utility Solar Energy Facility on the property before issuance of a certificate of zoning compliance.
5. Compliance with the County Building Code and the National Electric Safety Code: Construction of a Utility Solar Energy Facility shall comply with the National Electric Safety Code and the County Building Code (as shown by approval by the County) as a condition of any Special Land Use Permit under this section. In the event of a conflict between the County Building Code and National Electric Safety Code (NESC), the NESC shall prevail.
6. Environmental Impact: Copy of the Environmental Impact Analysis.
7. Wildlife Impact: Copy of the Wildlife Impact Analysis.
8. Manufacturers' Safety Data Sheet(s): Documentation shall include the type and quantity of all materials used in the operation of all equipment.
9. Decommissioning Plan: Copy of the decommissioning plans and a description of how any surety bond is applied to the decommissioning process.
10. Complaint Resolution Protocol: Copy of Complaint Resolution Protocol.
11. Emergency Action Plan: Copy of a plan for the actions to be taken in event of an emergency. The emergency action plan must include a fire suppression plan, including the technology to be used and the training and equipment to be

provided to Township or other firefighters before the facility becomes operational. The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.

12. Site Plan Requirements shall be submitted, showing the location, size, and screening of all buildings and structures. The site plan shall also include the following:
 - a. Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access;
 - b. The location, approximate height, and dimensions of all existing structures, existing parcel drainage tile layouts, water bodies, waterways, floodplains, landscaping, and fencing, on the parcels planned for Solar Energy installation including other parcels within (1/4) one quarter of the project's boundaries.
 - c. Documentation of existing vegetation, regulated wetlands, regulated floodplains, regulated and endangered species, and regulated lakes, streams, or ponds.
 - d. Lighting plan;
 - e. Plan(s) showing the location of proposed Utility Solar Energy Facility, underground and overhead wiring (including the depth of underground wiring), new drainage facilities (if any), access drives (including width), substations and accessory structures, along with a note indicating where any trees measuring over 2.5 feet in diameter within six inches of grade are to be removed;
 - f. A map depicting topographical grades and conditions of the planned Solar Energy parcel(s) or lots at time of application.
 - g. Proof that the Applicant and/or its contractor has informed the Livingston County Road Commission (LCRC) and the Township of all the roads they propose to use as haul routes to each construction (including repair and decommissioning) site. This shall be done prior to beginning any construction (or decommissioning) at any site. A third-party road inspector will be retained, with mutual approval of the Township, the Applicant, and the LCRC or the Michigan Department of Transportation (MDOT) if a state highway is involved. The road inspector will determine any precautions to be taken (including video taping and physical inspections) during the process to determine any damage that may be caused by Applicant's contractor(s), and then determine the appropriate road standards and measures to be taken to repair the damage. The cost of the third party road inspector and/or any other required third party assistance, and of all repairs necessitated to restore the roads [and related property which may be damaged by the contractor(s)], shall be the responsibility of the Applicant and/or their contractor, and shall in no case be the responsibility of the Township.

- h. Anticipated construction schedule;
- i. Description of operations, including anticipated regular and unscheduled maintenance and the hours maintenance will take place;
- j. The applicant must also obtain a permit from the Livingston County Road Commission or Michigan Department of Transportation (MDOT) for permission to connect access roads to existing County roads and from the Livingston County Drain Commission for any culverts or other drainage facilities;
- k. Proof of approval by Livingston County, Road Commission, and Drain Commission;
- l. Any other relevant studies, reports, certificates, or approvals as may be reasonably required by the Planning Commission;
- m. A copy of the agreement between the applicant and the utility company that will be purchasing electricity from the proposed Utility Solar Energy Facility;
- 1. An affidavit or evidence of an agreement between the lot owner or operator confirming the owner or operator has the permission of the property owner to apply for the necessary permits for construction and operation of Utility Solar Energy Facility;
- m. A complete description of the proposed technology to include type of solar panel and system, maximum height, fixed mounted versus tracking, number of panels and angles of orientation;
- n. An escrow deposit shall be provided to the Township in an amount included in the Township's Annual Fee Schedule; and
- o. A complete set of photos and video of the entire development area prior to construction.
- p. Airport Review: Any Solar Energy System must be reviewed using the current Solar Glare Hazard Analysis Tool (SGHAT) available through Sandia National Laboratories or a commercially available equivalent. The SGHAT will be used to ensure that airports and those that use them will not be affected by unwanted visual or ocular impacts. The process is designed to save costs and increase public safety.
 - 1. The Study shall determine if there are any potential adverse effects on any registered airfield within ten miles of the project. Effects noted, but not exclusively, should include any possible decreased safety and utility.
 - 2. In addition, all proposed solar facilities must obtain a Determination of No Hazard (DNH) from the Federal Aviation Administration (FAA). A DNH does not eliminate the need for the SGHAT study nor does it in any way eliminate the standard for glare on roadways or non-participating parcels.
 - 3. The DNH must be obtained prior to breaking ground on any portion of the Solar Energy System.

4. No Solar Energy System that impacts safety or utility of any registered airfield shall be permitted.

13. Application Fee. Review fees shall be submitted for a Land Use Permit application, Special Use Permit application, site plan review, and required escrow fee to the Township in the amount specified in the fee schedule adopted by the Board of Trustees. This shall include but not be limited to independent review by experts, as deemed necessary by the Planning Commission

D. Site Requirements:

1. The site shall be at least forty (40) acres.
2. The site may consist of a single participating property or multiple participating properties.
3. The site and all fenced compounds shall have access described below.
 - a. There shall be direct access from a public road or an access easement with a maximum length of one thousand two hundred fifty (1,250) feet and a width of at least thirty-three (33) feet.
 - b. Access drives shall have a hard surface or material that can pack hard that is sufficient to support fire apparatus and provide access at all times of the year.

E. Buffering Requirements:

1. There shall be a landscape buffer at least twenty (20) feet wide along the exterior of the fenced compound, whenever existing natural vegetation does not otherwise reasonably obscure the Utility Scale Solar Energy Facility, as described below.
 - a. The buffer shall be installed to obscure Utility Scale Solar Facility and shall contain two rows of staggered evergreen trees planted not less than twelve (12) feet apart trunk to trunk, and the two rows shall be 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.
 - b. Plantings shall be least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader (not including the height of the leader) and must be a species that can reasonably be expected to 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 in Row One closet to fence. Row Two shall be Thuja Green Giant Arborvitae.
2. Good arboricultural 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.
3. All fences and improved areas shall comply with the applicable setback for the

underlying zoning district in which it is located.

4. All structures and improved areas located within the fenced compound shall be at least thirty (30) feet from the fence line.
5. Solar energy systems and related accessory structures, such as transformers, shall be at least one hundred (100) feet from road rights-of-way, wetlands, lakes, rivers, and Wellhead Protection Areas, and five hundred (500) feet from non-participating residential dwellings, churches or religious institutions, schools, family or group child day-care homes, bed and breakfast establishments, residential facilities, and any other residence or inhabited structure.

F. Performance Standards:

1. Utility Solar Energy Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations.
2. PV Array Components: PV array components shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (ETL), or other similar certification organization if the similar certification organization is acceptable to the Township.
3. Fencing: Utility Solar Energy Facility compounds shall be completely surrounded by a fence designed to prevent unauthorized access and screen the facility.
 - a. The fence shall be at least seven (7) feet tall, and posts shall extend at least thirty-six (36) inches into the ground.
 - b. Gate posts and corner posts shall have a concrete foundation.
 - c. The fence shall be a woven agricultural-style fence. The Township may require or allow durable green opaque material to be integrated into the fence if necessary for buffering or screening.
 - d. Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.
 - e. Gates shall be the same height and constructed of the same material as the fencing. Access, such as knock box, shall be provided for emergency responders.
 - f. The Township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.
 - g. Alternate fencing may be approved by the Township upon a finding that the alternative provides adequate access control and visual screening.
4. Safety:
 - a. All collection system wiring shall comply with all applicable safety and stray voltage standards.
 - b. All electrical connection systems and lines from the Utility Solar Energy Facility to the electrical grid connection shall be located and maintained a minimum of six (6) feet underground within and adjacent to the site.

- c. All access gates and doors to Utility Solar Energy Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.
 - d. The applicant shall be responsible for maintenance of the access roads.
 - e. The manufacturers or installer's identification and appropriate warning signs shall be posted on or near solar panels in a clearly visible manner.
 - f. Fire suppression plans and Safety Data Sheets shall be kept on-site and be accessible for emergency responders.
 - g. The applicant will provide an unredacted copy of the manufacturer's safety manual for each component of the Solar Farm without distribution restraints to be kept at the Township Hall and other locations deemed necessary by Planning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during Solar Farm failure, processes in emergencies, etc.
 - h. The Township shall have the right upon issuing any Solar Farm special use permit to inspect the premises on which each Solar Farm is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the Solar Farm.
5. Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this Ordinance.
 6. Signs shall be posted at entrances to Utility Solar Energy Facility compounds containing emergency contact information, operator contact information, and complaint resolution information. The Township may require additional signs with this information on the fence surrounding the compound.
 7. The Utility Solar Energy Facility owner, operator, and property owner shall be responsible, jointly and severally, for mitigating erosion, flooding, and all other environmental impacts resulting from the Utility Solar Energy Facility.
 8. The Utility Solar Energy Facility owner, operator, and property owner shall be responsible, jointly and severally, for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, or damage to, a Utility Solar Energy Facility. Any solar panel damaged beyond repair or use must be removed from the project site within five days and must be disposed of off-site in accordance with any state or federal requirements.
 9. Utility Solar Energy Facilities shall not have any on-site battery storage systems for the sale of stored energy.
 10. Plants or grasses not part of the buffer area shall be maintained not to exceed a height of twelve (12) inches. The Township may approve a taller height upon a finding that it will not result in a nuisance.
 11. Wildlife Impact:
 - 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 wildlife and endangered species. The applicant shall take appropriate measures

to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- b. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
- c. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.
- d. The analysis shall indicate whether a post-construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.

12. Environmental Impact:

- 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.).

13. Spacing. Utility Solar Energy Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility Solar Energy Facility.

14. Noise. The noise generated by a utility-scale solar energy system must not exceed the following limits:

- a. Forty (40) Dba Lmax, as measured at the lot line of the project property.

- b. Thirty-Five (35) Dba Lmax, as measured at the lot line of the project property, between the hours of 9:00 p.m. and 7:00 a.m.
 - c. In addition to the above limitations, a sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than 10 feet apart, must be constructed to reduce noise levels surrounding all inverters. The berm must be no more than ten (10) feet from all inverters, must be at least as tall as all inverters but not more than three (3) feet taller than the height of all inverters.
 - d. The noise level by a Utility Scale Solar Energy Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with these noise requirements.
15. Groundcover. Utility Scale Solar Energy Facilities shall include the installation of perennial ground cover vegetation that shall be maintained for the duration of operation until the site is decommissioned.
- a. Land enrolled or bound by the Farmland Preservation Program must follow the Michigan Department of Agriculture and Rural Development's Policy for Allowing Commercial Solar Panel Development on PA 116 Lands.
 - b. Land not enrolled or bound by the Farmland Preservation Program must provide at least one (1) of the following types of dual use ground cover to promote ecological benefits:
 - 1. Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites (www.pollinators.msu.edu);
 - 2. Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species, such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;
 - 3. Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or
 - 4. Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.
 - c. The Township may approve or require alternative ground cover upon finding it is not feasible to provide groundcover as defined above.
 - d. All groundcover must be native plants with substantial root system to support soil. Turf grass is not permitted as ground cover.
 - e. Invasive species and noxious weeds are not permitted and must be removed in a timely manner.
16. Lighting. Lighting shall be limited to inverter or substation locations only and shall comply with 14.04(E) Lighting.
17. Emergency Action Plan; Emergency Training. Before the Utility Solar Energy Facility is operational, it must provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.

18. General Liability Insurance; Bonding Requirements; Escrow Requirements.

- a. Utility Solar Energy Facilities shall have and maintain general liability insurance of at least ten million (\$10,000,000.00) dollars. The Township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.
- b. In addition, In order to assure the funds will be available to perform all road repairs required under this ordinance, the Applicant will be required to post financial security acceptable to the Township, in the form of: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable letter of credit; or c) an escrow account established in a financial institution licensed in the State of Michigan. The amount of the security shall be a minimum of one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The bond (or other security) shall only be released (in whole or part) when the Township Board, in consultation with LCRC and the third party inspector, determines that all required road work has been completed and approved by LCRC and/or MDOT.
- c. General Maintenance Bond. The Township shall require a General Maintenance Bond to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the Solar Farm. At the time of the Special Use application, the Applicant shall submit two third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Solar Farm, and the bond shall be the higher of the two bids. The Township may use the bond to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this Ordinance, in the event that the Solar Farm owner fails to adequately maintain the required site improvements, or fails to make operational changes to correct an operational violation.
- d. The Applicant shall be required, as a condition of the operation, to fund an escrow account for investigation of complaints for, but not limited to glare, stray voltage, noise, and signal interference in the amount of \$15,000.00 to be used at the discretion of the Township Board to pay for third party investigative services, the provider of which shall be chosen by the Township. Such funds shall be deposited with the Township Treasurer, or with a third-party fiduciary, at the discretion of the Township. When the escrow account balance is below \$5,000.00 the Township shall notify the Applicant and the Applicant shall replenish the account to the amount of \$15,000.00 within 45 days.

19. Repowering or Modifications. Any modifications of an approved site plan that are made after the initial date of approval, including an expansion of project, shall be resubmitted to the Township Planning Commission for review at an additional fee based upon current fee schedule. Any changes of the approved site plan, subject to

this Ordinance as it exists at time of application, will require a new site plan application and review, including reconfiguration of arrays, updating current technology, and Solar Energy Facility infrastructure.

20. The Applicant must submit an attestation that the Applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, use, maintenance, repair, or removal of the Solar Farm.
21. Prior to the start of construction, any existing drain tile must be inspected by robotic camera and the imagery submitted to the township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and township. While the facility is in operation, the owner or operator must reinspect the drain tiles every three years by robotic camera for any damage and must repair any damage within 60 days of discovery. The owner or operator must report the inspection, along with any damage and repair, to the Township within 90 days after each three-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the time of repair. Solar panel support structures and/or foundations shall be constructed to preserve any drainage field tile or system.
22. Transfer or Sale: In the event of a transfer or sale of the Solar Farm, the new owner or operator must notify the Township in within 30 days, and the Zoning Administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

G. Abandonment and Decommissioning:

Following the operational life of the project, the Applicant shall perform decommissioning and removal of the Utility Solar Energy Facility and all its components and restore the site to its original conditions.

1. The decommissioning plan shall be written to provide security to the Township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once value of decommissioning is determined, it shall be updated on a periodic basis of not less than every three (3) years and additional security may be required on the basis of the average inflation rate of the preceding three (3) years.
2. All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.
3. Solar energy systems that are not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be subject to removal proceedings.
4. Solar energy systems that are damaged shall be replaced or removed within seven (7) days.
5. The ground must be restored to its original topography within three hundred sixty- five

(365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.

6. If land balancing is required, all top soil will be saved and spread evenly over balanced area.
7. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if use is to cease, prior to decommissioning, or abandonment.
8. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Solar Energy Facility exists or is in place shall constitute a material and significant violation of the Special Land Use, Special Use Permit, and this Ordinance, and will subject the Utility Solar Energy Facility Applicant, owner, and operator, jointly and severally, to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.
9. The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.

H. Complaint Resolution:

Utility Solar Energy Facilities shall provide a complaint resolution process, as described below.

1. The site shall have signs posted with contact information to collect complaints related to the Utility Solar Energy Facility.
2. A log shall be kept by the owner or operator of all complaints received and shall be available to Township officials for review, per Township request.
3. The operator or its agent shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.
4. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.
5. The operator or its assigns reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

5. ADDITION OF SECTION 6.31 "PRIVATE SOLAR ENERGY SYSTEMS"

Article VI GENERAL PROVISIONS of the Zoning Ordinance entitled is hereby amended to add a Section 6.31 entitled "Private Solar Energy Systems" which shall read, in its entirety, as follows:

Section 6.31 Private Solar Energy Systems

Private Solar Energy Systems shall be permitted as an accessory use in all zoning districts, subject to the following:

- A. A land use permit from the Township is required for the installation of any Ground Mounted Private Solar Energy System. The applicant is responsible for contacting the building department to determine if a Private Solar Energy System requires a building permit. The application shall include a scaled plot plan shown the property lines, setbacks, existing and proposed buildings and structures, road rights-of-way, wiring location, and panel information.
- B. Ground-mounted Private Solar Energy System shall be located in the rear yard or side yard and shall meet the rear and side yard setbacks for accessory structures in the zoning district in which it is located.
- C. Roof-mounted Private Solar Energy Systems erected on a roof shall not extend beyond the peak of the roof. If the Private Solar Energy System is mounted on a building in an area other than the roof, it shall not extend vertically beyond the wall on which it is mounted and shall not extend more than twelve (12) inches beyond the wall on which it is mounted.
- D. Ground-mounted Private Solar Energy Systems shall have a maximum height of twenty-five (25) feet above the ground when oriented to maximum tilt.
- E. All power transmission lines, wires, or conduits from a ground-mounted Private Solar Energy System to any building or other structure shall be located underground.
- F. Batteries associated with Private Solar Energy Systems must be located within a secured container or enclosure.
- G. Solar energy systems that are damaged shall be replaced or removed in a timely manner.
- H. Signage shall be provided in a visible location with disconnection procedures for emergency first responders.
- I. All Private Solar Energy Systems, including BIPVs, ground-mounted, and structure mounted, shall conform to applicable County, State, and Federal laws and regulations and safety requirements including Michigan Building codes.
- J. Private Solar Energy Systems that have been abandoned for a period of one (1) year shall be removed by the property owner within six (6) months of the date of abandonment.

6. Validity and 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.

7. Repealer

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

8. Effective Date

This Ordinance takes effect seven days after publication as provided by law.

SOLAR FARM OVERLAY DISTRICT DRAFT



Parcel Number	Acres
10-01-300-003	1.11
10-01-300-004	0.48
10-01-300-005	1.84
10-01-300-007	2.54
10-01-300-010	9.74
10-01-300-011	2.95
10-01-300-017	10.94
10-01-300-018	5.15
10-01-300-021	4.72
10-01-300-022	2.54
10-01-300-023	5.3
10-01-300-033	5.2
10-02-400-004	0.85
10-02-400-005	0.94
10-02-400-010	12.27
10-02-400-011	3.85
10-02-400-013	10.2
10-02-400-014	19.66
10-02-400-016	31.61
10-02-400-017	16.03
10-02-400-018	22.57
Total Acres in Overlay	170.49

**Marion Township
Livingston County,
MI**