

SIDNEY TOWNSHIP

ORDINANCE NO. 2021-_____

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO REGULATE SOLAR ENERGY SYSTEMS**

The Township of Sidney ordains:

Section 1. Add Definitions to Article 2

The following definitions are added to Article 2 of the Zoning Ordinance, and will be placed in the sections of the Zoning Ordinances identified below so that all definitions are in alphabetical order:

Section 2.02:

- A. Abandonment: A Solar Energy System is abandoned if it has not been in operation for a period of one year. This includes a Solar Energy System that was never operational if construction has been halted for a period of one year.

Section 2.03:

- B. Building Integrated Photovoltaics (BIPVs): A small Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

Section 2.08:

- C. Ground Mounted Solar Energy System: A Small Solar Energy System or Solar Farm that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.

Section 2.19:

- D. Roof or Building Mounted Solar Energy System: A Small Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

Section 2.20:

- E. Small Solar Energy System: A Solar Energy System used exclusively for private purposes and not used for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
- F. Solar Energy System: Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by solar energy to any other medium by any means.

G. Solar Farm: A Solar Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

Section 2. Add New Section 16.08(MM), entitled “Solar Energy Systems”

Section 16.08(MM), entitled “Solar Energy Systems,” is added to the Township’s Zoning Ordinance. The section reads in its entirety as follows:

Section 16.08(MM). Solar Energy Systems.

A. General Provisions. All Solar Energy Systems are subject to the following requirements:

1. All Solar Energy Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI).

2. The Township may revoke any approvals for, and require the removal of, any Solar Energy System that does not comply with this Ordinance.

3. Solar Energy Systems must be located or placed so that concentrated solar glare is not directed toward or onto nearby properties or roadways at any time of the day.

4. Solar Energy Systems and any related equipment, fencing, or screening must be maintained in good repair and kept clear of trash or other debris.

5. Solar Energy Systems are permitted in the Township as follows, subject to this Section 16.08(MM) and other applicable provisions of the Zoning Ordinance:

Type of System	Sub-Type of System	Zoning District	Special land Use Permit
Small Solar Energy System	Private BIPVs	All zoning districts	Not required
	Roof or Building Mounted Small Solar Energy System	All zoning districts as accessory use	Not required
	Ground Mounted Small Solar Energy Systems	AP (Agricultural Preservation)	Required
Solar Farm	All Solar Farms (Ground Mounted only)	AP (Agricultural Preservation)*	Required

* Solar Farms are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program.

B. Small Solar Energy Systems.

1. Small Solar Energy System BIPVs. Small Solar Energy System BIPVs are permitted as an accessory use in all zoning districts. A building permit and zoning compliance permit are required for the installation of BIPVs.

2. Roof or Building Mounted Small Solar Energy Systems. Roof or Building Mounted Small Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to the following requirements:

- a. A building permit and zoning compliance permit are required for the installation of Roof or Building Mounted Small Solar Energy Systems.
- b. No part of the Solar Energy System erected on a roof is permitted to extend beyond the peak of the roof. If the Solar Energy System is mounted on a building in an area other than the roof, no part of the Solar Energy System is permitted to extend beyond the wall on which it is mounted.
- c. No part of a Solar Energy System mounted on a roof is to be installed closer than three feet from the edges of the roof, the peak, or eave or valley to maintain pathways of accessibility.
- d. No part of a Solar Energy System mounted on a roof is permitted to extend more than two feet above the surface of the roof. The total height may not exceed the maximum building height for the zoning district in which it is located.
- e. A Building Mounted Small Solar Energy System must not be mounted on a wall that is facing an adjacent public right-of-way unless the building is set back at least 300 feet from the public right-of-way.
- f. If a Roof or Building Mounted Small Solar Energy System has been abandoned, the property owner must remove it within three months after the date of abandonment.
- g. Roof or Building Mounted Small Solar Energy Systems must be located or placed so that concentrated solar glare is not directed toward or onto nearby properties or roadways at any time of the day.

3. Ground Mounted Small Solar Energy Systems. Ground Mounted Small Solar Energy Systems are allowed only in the AP (Agricultural Preservation) zoning district and require a special land use permit and site plan review. In addition to all requirements for a special land use permit under Article 16 of the Zoning Ordinance and site plan review and approval under Article 15 of the Zoning Ordinance, Ground Mounted Small Solar Energy Systems are also subject to the following requirements:

- a. *Site Plan.* Before installation of a Ground Mounted Small Solar Energy System, the property owner must submit a site plan to the Zoning Administrator. The site plan must include setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan must be drawn to scale. The site plan must be accompanied by photographs of the property in its current condition.
- b. *Minimum Acreage.* A Ground Mounted Small Solar Energy System may only be installed on a parcel that is three acres in size or larger.
- c. *Maximum Height.* A Ground Mounted Small Solar Energy System must not exceed eight feet above the ground when oriented at maximum tilt, measured from grade to the top of the highest panel.
- d. *Location.* A Ground Mounted Small Solar Energy System must be located in the rear yard and meet the rear yard setback requirements applicable in the AP (Agricultural Production) zoning district, except that the Planning Commission may allow a Ground Mounted Small Solar Energy System to be located in a side yard or rear yard if (1) the Ground Mount Small Solar Energy System is set back at least 300 feet from the public right-of-way; and (2) locating the Ground Mount Small Solar Energy System in the front or side yard will not unreasonably interfere with the use and enjoyment of adjacent properties.
- e. *Lot Area Coverage.* No more than 10% of the parcel may be covered by a Ground Mounted Small Solar Energy System.
- f. *Drainage.* If more than 2,000 square feet of ground surface will be covered by the Ground Mounted Small Solar Energy System, then the applicant must include a drain management plan with its site plan.
- g. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Ground Mounted Small Solar Energy System to any building or other structure must be located underground. If batteries are used as part of the Ground Mounted Small Solar Energy System, they must be placed in a secured container or enclosure.
- h. *Screening.* Greenbelt screening is required around any Ground Mounted Small Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent properties. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a

decorative fence that is 50% opaque (and that meets the requirements of this Ordinance applicable to fences) may be used if approved by the Planning Commission.

- i. *Appearance.* The exterior surfaces of a Ground Mounted Small Solar Energy System must be generally neutral in color and substantially non-reflective of light.
- j. *Abandonment.* If a Ground Mounted Small Solar Energy System has been abandoned, the property owner must notify the Township and remove the system within three months after the date of abandonment.
- k. *Building Permit.* In addition to a special land use permit and site plan approval, a building permit is required for installation of a Ground Mounted Small Solar Energy System.
- l. *Transferability.* A special land use permit for a Ground Mounted Small Solar Energy System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
- m. *Remedies.* If an applicant or operator of a Ground Mounted Solar Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

C. Solar Farms. Solar Farms are allowed only in the AP (Agricultural Preservation) zoning district (except Solar Farms are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program) and require a special land use permit and site plan review. In addition to all requirements for a special land use permit under Article 16 of the Zoning Ordinance and site plan review and approval under Article 15 of the Zoning Ordinance, Solar Farms are also subject to the following requirements:

1. *Application Requirements.* The applicant for a Solar Farm must provide the Township with all of the following:

- a. Application fee in an amount set by resolution of the Township Board.
- b. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed operator, and the real property owners.

- c. A site plan that includes all proposed structures and the location of all equipment, transformers, and substations, as well as all setbacks, panel sizes and locations, and the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, lighting, proposed access routes, land elevations, structures on adjacent parcels, and road right of ways. The site plan must be drawn to scale and must indicate how the Solar Farm will be connected to the power grid.
- d. Scaled drawings depicting the location, height, elevation, and size of all components of the Solar Farm.
- e. A map and narrative description of the land uses of all non-participating parcels adjacent to the Solar Farm.
- f. A list of all parcel numbers that will be used by the Solar Farm; documentation establishing ownership of each parcel; legal descriptions for each parcel; and any lease agreements, easements, letters of intent, or purchase agreements for the subject parcels demonstrating the property owners' consent to include the parcels in the Solar Farm.
- g. A plan for managing erosion and sediment control.
- h. An operations agreement setting forth the operations parameters, the applicant's inspection protocol, security and emergency procedures, and general safety documentation. The security and emergency procedures must describe how the applicant or operator will prevent unauthorized access to the Solar Farm and warn and protect the public about potential dangers during the construction, operation, removal, maintenance or repair of the Solar Farm.
- i. Current photographs of the subject property.
- j. A graphical demonstration (preferably computer-generated) of the Solar Farm as completed.
- k. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Solar Farm.
- l. A written plan and schedule for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
- m. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Solar Farm, including evidence of proposed commitments with

property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Solar Farm and restore the subject parcels

- n. An escrow payment that meets the requirements of this Section.
- o. Financial security that meets the requirements of this Section.
- p. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Solar Farm.
- q. A plan for managing any hazardous waste.
- r. A description of any electromagnetic interference that may be generated by the Solar Farm.
- s. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation.
- t. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Solar Energy System.
- u. A copy of the manufacturer's installation instructions and safety measures.
- v. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.
- w. An environmental impact study that evaluates the environmental impact of the Solar Farm, including its impact on water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, areas of aesthetic or historic importance, archeological or cultural concerns, neighboring properties, utilities and infrastructure, noise, and any other relevant factors.
- x. An estimated construction timeline.

- y. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

2. *System and Location Requirements.*

- a. Solar Farms must be ground mounted.
- b. Solar Farms must be located on parcels of land 15 acres in size or larger.
- c. The project area of the Solar Farm must not cover more than 150 total acres (regardless of the number of parcels used by the Solar Farm). “Project area” means the surface area of all land covered by solar arrays, including spacing between rows of panels, but not including setbacks required by this Ordinance.
- d. Solar Farms are permitted only in the AP (Agricultural Preservation) zoning district.
- e. Solar Farms are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program.
- f. Solar Farms (including all solar panels, structures, and equipment) must be set back 350 feet from all lot lines and 300 feet from all public road rights-of-way. If a single Solar Farm is located on more than one lot, then the lot-line setbacks of this subsection do not apply to the lot lines shared by those lots.
- g. The height of the Solar Farm and any mounts, buildings, accessory structures, and related equipment must not exceed 10 feet when oriented at maximum tilt. Height is measured from the natural grade at the base of the component being measured. Lightning rods may exceed 10 feet in height, but they must be limited to the height necessary to protect the Solar Farm from lightning.

3. *Permits.* All required county, state, and federal permits must be obtained before the applicant or operator begins construction of any phase of the Solar Farm.

4. *Escrow Account.*

- a. The applicant must establish an escrow account when it submits its application for a Solar Farm. The amount must equal an estimate of the total costs of (1) reviewing and processing the special use permit application and site plan, including publication and administrative costs and costs of the Township Attorney, Township Planner, and Township engineer; and (2) any professional studies or report

prepared by the Township or on the Township's behalf to assist with its evaluation of the application.

- b. The Township may draw from the escrow account to reimburse any of its costs or expenses incurred in reviewing, processing, and evaluating the application before approval or denial. The Township may require the applicant to replenish the escrow account at any time to ensure a sufficient balance.
- c. The escrow account will be maintained and must continue to be replenished while the Solar Farm is in operation, and the Township may draw from the escrow account to pay any costs incurred in enforcing this Ordinance with respect to the Solar Farm, including legal fees and expenses.
- d. If the Township instructs the applicant to replenish the escrow account and the applicant fails to do so within 14 days after receiving notice, then the Township has no further obligation to process the applicant's application until the escrow account is replenished. If the application has already been approved, then the applicant's failure to replenish the escrow account within 14 days after receiving notice is a violation of this Ordinance for which the Township may, upon notice and a hearing, revoke the special land use permit.
- e. Any funds in the escrow account that exceed the Township's actual costs after the application is denied (and after any and all appeals have been exhausted), or after the Solar Farm is decommissioned if the application is approved, will be returned to the applicant. The Township will provide an itemized statement to the applicant upon the applicant's request.

5. *Screening.* Greenbelt screening is required around any Solar Farm and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Farm from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. At least 50% of the plants must be evergreen trees that are at least six feet tall at the time of planting. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque and that meets the requirements of this Ordinance applicable to fences may be used if approved by the Planning Commission.

6. *Lighting.* Lighting of the Solar Farm is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lots used for the Solar Farm. The Solar Farm must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

7. *Signs.* The Solar Farm must not display any signs, logos, advertising, graphics, lettering, or commercial inscriptions on the solar arrays or any part of the Solar Farm. The Solar

Farm may only post the warning signs required under this Ordinance and signs at each entrance to the Solar Farm, subject to all Township sign regulations.

8. *Security Fencing.* The applicant or operator must install an eight-foot tall chain link security fence around the perimeter of the Solar Farm, which must enclose all electrical equipment related to the Solar Farm, including any transformers and transfer stations. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Solar Farm, which must include emergency contact information and emergency shutdown procedures.

9. *Noise.* The noise generated by a Solar Farm must not exceed the following limit:

- a. 40 dB(A) Leq 1 second or 50 dB(C) Leq 1 second, as measured at the property line of any adjacent non-participating parcel.
- b. 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 10 feet from all inverters, must be at least as tall as all inverters but not more than three feet taller than the height of all inverters.

10. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Solar Farm to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation. If batteries are used as part of the Ground Mounted Solar Energy System, they must be placed in a secured container or enclosure.

11. *Drain Tile Inspections.* The Solar Farm must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Solar Farm is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within 60 days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

12. *Damage to Roads.* The applicant and operator are jointly responsible for any damage to any public roads in the Township caused by the construction, maintenance, or operation of the Solar Farm.

13. *Insurance.* The applicant or operator must maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$10 million per occurrence and provide proof of insurance to the Township before approval of any special land use permit and after approval on a quarterly basis.

14. *Decommissioning.* If a Solar Farm is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must

remove the system within six months after the date of abandonment. The Planning Commission may extend this six-month period upon good cause shown. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. Decommissioning requires removing all structures, fencing, equipment foundations, footings, and debris to a depth of four feet and restoring the soil and vegetation to the condition they were in before construction of the Solar Farm. The requirements of this subsection also apply to a Solar Farm that is never fully completed or operational if construction has been halted for a period of one year.

15. *Financial Security.* To ensure proper decommissioning of a Solar Farm upon abandonment, the applicant must post financial security in the form of a surety bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two years to ensure that the amount remains adequate. This financial security must be posted within 15 business days after approval of the special land use application. If the applicant or operator fails to timely decommission the Solar Farm as required under this Ordinance, then the Township may draw from the financial security to decommission the Solar Farm and to pay any costs associated with decommissioning, including legal fees and expenses.

16. *Extraordinary Events.* If the Solar Farm experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

17. *Quarterly Report.* The applicant or operator must submit a report on or before January 1, April 1, July 1, and October 1 of each year that includes all of the following:

- a. Current proof of insurance;
- b. Verification of financial security; and
- c. A summary of all complaints, complaint resolutions, and extraordinary events.

18. *Inspections.* The Township may inspect a Solar Farm at any time by providing 24 hours advance notice to the applicant or operator.

19. *Complaints.* The applicant and operator must comply with the complaint resolution plan submitted with the application, subject to any conditions imposed by the Planning Commission.

20. *Expiration.* The special land use permit expires if the Solar Farm is not constructed within 24 months after the date of issuance. The Planning Commission may extend this 24-month period upon good cause shown.

21. *Transferability.* A special land use permit for a Solar Farm is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

22. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

Section 3. 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.

Section 4. 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.

Section 5. Effective Date.

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

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