

**SHELBY TOWNSHIP
OCEANA COUNTY, MICHIGAN**

ORDINANCE NO. 04-01-19-1

AN ORDINANCE TO AMEND THE SHELBY COMMUNITY ZONING ORDINANCE; TO AMEND SECTION 2.19 TO ADD NEW DEFINITIONS; TO AMEND SECTION 5.02 TO ADD A NEW SPECIAL LAND USE; TO AMEND SECTION 6.02 TO ADD A NEW SPECIAL LAND USE; TO AMEND SECTION 8.02 TO ADD A NEW SPECIAL LAND USE; TO AMEND SECTION 9.02 TO ADD A NEW SPECIAL LAND USE; TO AMEND CHAPTER 3 TO CREATE SECTION 3.32 PERTAINING TO SMALL SCALE SOLAR ENERGY SYSTEMS; AND TO AMEND SECTION 11.04 TO CREATE SUBSECTION LL PERTAINING TO UTILITY SCALE SOLAR ENERGY SYSTEMS.

SHELBY TOWNSHIP, OCEANA COUNTY, MICHIGAN, ORDAINS:

Section 1. Amendment of Section 2.19. Section 2.19 of the Shelby Community Zoning Ordinance is amended to include a new definition, which is added in alphabetical order:

SOLAR ENERGY COLLECTOR

A system (including solar collector surfaces and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems. The following definitions are within this subcategory:

- A. Ancillary Solar Equipment: Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters, or water heater tanks.
- B. Property Owner or Lessor: Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.
- C. Solar Collector Surface: Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.
- D. Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

publication of adoption in Oceana's Herald-Journal, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.


ROLL CALL VOTE:


YES: 5

NO: 0

ABSENT/ABSTAIN:

Declared adopted on: [DATE]. 4-1-2019


John Hendrixon, Township Supervisor


Marilyn Glover, Township Clerk

be charged with the inspection's expenses. Inspections within the utility scale solar energy system must be coordinated with the Property Owner or Lessor, and if requested by the Property Owner or Lessor, escorted by the utility scale solar energy system's operations staff to ensure compliance with the Occupational Safety and Health Administration (OSHA), NEC, and all other applicable safety guidelines.

19. Decommissioning.

- a. Any utility-scale solar energy system which has reached the end of its useful life or has not operated continuously for one year or more shall be removed and parcel owners shall be required to restore the site. The owner/operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.
- b. The owner/operator shall notify the Township personally or by certified mail of the proposed date of discontinued operations and plans for removal.
- c. If the owner/operator fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Township may enter the property and physically remove the installation.
- d. Removal of the installation shall consist of the following:
 - 1) Physical removal of all aboveground or underground utility-scale solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - 2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - 3) Stabilization or re-vegetation of the site as necessary to minimize erosion.

20. Financial Guarantee. The applicant for a utility scale solar energy system shall provide a form of surety, either through escrow account, letter of credit, bond, or other instrument acceptable to the Township Attorney. The purpose of the surety is to cover the cost of removal of the utility scale solar energy system in the event the Township must remove the installation. The amount of the financial surety shall not exceed more than 125 percent of all costs of removal and compliance with the additional requirements set forth herein. It shall be submitted by the applicant and be prepared by a qualified engineer. The surety shall be subject to review and approval by the Planning Commission and shall be a condition of special land use approval.

Section 8. Severability. Should any portion of this Ordinance/ordinance amendment be declared to be invalid or unconstitutional by a court of competent jurisdiction, that shall not affect any other portion or provision this Ordinance/ordinance amendment which shall remain valid and in full force and effect.

Section 9. Effective Date. This Ordinance is ordered to take effect seven (7) days following

does not apply to entrance gate signage or notifications containing contact personnel, or any and all other information that may be required by authorities having jurisdiction for electrical operations. This provision shall not limit the use of signage as otherwise permitted in this Ordinance for that Zoning District; except that Billboards advertising products or services off-premises shall not be permitted.

10. Glare and Reflection. The exterior surfaces of utility scale solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A solar collector surface shall not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
11. Location. Solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties while remaining functional.
12. Obstruction. Solar energy systems shall not obstruct solar access to adjacent and neighboring properties.
13. Power Lines. On site power lines between all structures and ancillary equipment and inverters shall be placed underground.
14. Fencing. For the purpose of restricting unauthorized access to the site, the Planning Commission may require that the perimeter of a utility scale solar energy system be fenced in with at least a four (4) foot high fence.
15. Operation and Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the utility scale solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
16. Emergency Services. Upon request by Shelby Township, the owner/operator of the utility scale solar energy system shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner/operator shall identify a responsible person for public inquiries throughout the life of the installation. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
17. Maintenance. The utility scale solar energy system owner/operator shall maintain the facility in good condition at all times. Maintenance shall include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel. The owner/operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s).
18. Inspection. The Township shall have the right at any reasonable time to inspect the utility scale solar energy system to determine compliance with their Special Use Permit or this Ordinance. Where the Township suspects a significant violation, it may hire one or more consultants with notice to the Property Owner or Lessor to assist with inspections. Where the violation is verified the Property Owner or Lessor shall

g. All additional plans and requirements set forth in this Section.

3. Permits. No utility-scale solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining all applicable permits. The construction, installation, operation, maintenance, or modification of all utility-scale solar systems shall be consistent with all applicable local, state, and federal requirements, and all buildings and structures that comprise a utility scale solar energy system shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code and the manufacturer's specifications.
4. Lot Area. Utility scale solar energy systems shall be located on a lot of at least ten (10) acres.
5. Lot Coverage. Utility scale solar energy systems shall be exempt from maximum lot coverage limitations, provided that they are in compliance with applicable regulations established by the Oceana County Drain Commission.
6. Agricultural and Forested Lands. The Township desires to have utility scale solar energy systems on more marginal lands; however, it recognizes that agricultural lands are ideal locations for these facilities. Where a utility scale solar energy system is located on Prime Agricultural Land as so classified by the County or a MSU Extension Agent, the Property Owner or Lessor shall identify what mitigating actions it is taking to minimize the loss of agricultural production (such as low-light plantings, wildflowers and sunflowers, bee apiaries, animal grazing, and other similar options).
7. Setbacks. Utility scale solar energy systems shall be located at least 50 feet from all property lines and at least one hundred (100) feet from any off-site residential structure, including any attached accessory use. The Township may require larger setbacks if it is determined that greater separation would better protect adjacent residents and property owners.
6. Height. Utility scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the natural grade below the unit to the highest point at full tilt. The Planning Commission may approve a higher elevation where animal grazing is permitted under the solar collector surface. The height of any Substation and related electrical transmission equipment shall not exceed thirty-five (35) feet. Electrical transmission towers or poles may be at heights required by industry standards.
7. Noise. Noise emanating from the solar energy collector system shall not exceed 50 decibels (dBA) as measured from any property line.
8. Screening. The Planning Commission may require that a utility scale solar energy system be screened from residential properties or public rights-of-way. Screening methods may include the use of material, colors, textures, screening walls, fencing, berms, landscaping, and/or natural vegetation that will blend the facility into the natural setting and existing environment.
9. Signage. No advertising or non-project related graphics shall be permitted on any part of the utility scale solar energy system or ancillary solar equipment. This exclusion

g. **Maximum Height.**

(1) **Residential Uses.** The maximum height shall be six (6) feet, measured from the natural grade below the unit to the highest point at full tilt.

(2) **Agricultural, Commercial, and Industrial Uses.** The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.

h. **Minimum Lot Area.** One (1) acre shall be the minimum lot area to establish a ground-mounted solar energy collector system.

i. **Screening.** Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.

j. Applicants requesting ground-mounted solar energy collectors shall demonstrate the system's projected electricity generation capability, and the system shall not regularly exceed the power consumption demand of the principal and accessory land uses on the lot. However, larger systems may be approved if greater electricity need is demonstrated to power on-site buildings and uses.

Section 7. Amendment of Section 11.04. Section 11.04 of the Shelby Community Zoning Ordinance is amended to include a new subsection LL, which reads as follows:

LL. Utility Scale Solar Energy Systems.

1. **Application.** A formal application shall be filed for any Special Land Use approval in accordance with Section 11.02, along with any application fees as established by the Township Board.

2. **Site Plan Required.** An application for special land use approval for a Utility Scale Solar Energy System shall include a site plan in accordance with Chapter 12. In addition to the information required for site plan approval in Section 12.03, all applications must also include the following:

a. Equipment and unit renderings.

b. Elevation drawings.

c. Setbacks from property lines and adjacent structures.

d. Notarized written permission from the property owner authorizing the Utility Scale Solar Energy System.

e. The name of all owners and property parcel numbers where there are multiple property owners leasing land to the Property Owner or Lessor.

f. Information regarding access driveways within and to the Utility Solar Energy System, together with details regarding dimensions, composition, and maintenance of each proposed driveway.

- f. Power Lines. On-site power lines between solar panels and inverters shall be placed underground pursuant to applicable building and electrical codes.
 - g. Abandonment and Removal. A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned unless the responsible party with ownership interest in the system provides substantial evidence to the Township every six (6) months after the twelve (12) months of no energy production of the intent to maintain and reinstate the operation of that system. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
3. Building-Mounted Solar Energy Collectors. These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.
- a. Maximum Height. The maximum height of the zoning district in which the building-mounted solar energy collectors are located shall not be exceeded by more than three (3) feet.
 - b. Obstruction. Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
4. Ground-Mounted Solar Energy Collectors. These systems are permitted in all zoning districts subject to the following conditions.
- a. Rear and Side Yards. The unit may be located in the rear yard or the side yard but shall be subject to the setbacks for accessory structures.
 - b. Front Yard. The unit may be located in the front yard only if located no less than one hundred fifty (150) feet from the front lot line.
 - c. Obstruction. Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
 - d. Vegetation. All vegetation underneath solar energy infrastructure shall be properly maintained so as to not block access to solar collectors.
 - e. Maximum Number.
 - (1) Residential Uses. There shall be no more than one (1) ground-mounted solar energy collector per principal building on a lot.
 - (2) Agricultural, Commercial, and Industrial Uses. There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
 - f. Maximum Size.
 - (1) Residential Uses. There shall be no more than one percent (1%) of the lot area, up to one thousand five hundred (1,500) square feet, of collector panels on a ground-mounted solar energy collector system.
 - (2) Agricultural, Commercial, and Industrial Uses. There shall be no more than ten thousand (10,000) square feet of collector panels on a ground-mounted solar energy collector system unless a Utility Scale Solar Energy Systems is approved pursuant to Section 11.04(LL) of this Ordinance.

District.

Section 6. Amendment of Chapter 3. Chapter 3 of the Shelby Community Zoning Ordinance is amended to add a new Section 3.32, which reads as follows:

SECTION 3.32 SMALL-SCALE SOLAR ENERGY SYSTEMS

A. Small-Scale Solar Energy Systems shall be permitted as an accessory use in all zoning districts, provided the following standards are met:

1. **Applicability.** This section applies to any system of small-scale solar energy collector systems. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground, nor does this section apply to utility-scale solar energy collector systems, which are regulated in Section 11.04(LL). Nothing in this section shall be construed to the sale of excess power through a net billing or net-metering arrangement.
2. **General Requirements.**
 - a. **Permit Required.** No small-scale solar energy collector system shall be installed or operated except in compliance with this section. A zoning permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system.
 - b. **Applications.** In addition to all other required application contents as listed in Section 15.03, equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.
 - c. **Sketch Plan.** A sketch plan shall be submitted to the Zoning Administrator to demonstrate adequate solar access at the proposed site of the small-scale solar energy system. This may include aerial imagery, maps, a site plan, or other materials that depict the proposed location and surrounding environment of the small-scale solar energy system.
 - d. **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads.
 - e. **Installation.**
 - (1) A small-scale solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable Township and State requirements.
 - (2) Small scale solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's specifications. Upon request, a copy of such specifications shall be submitted to the Township prior to installation.

- E. Building-Mounted Solar Energy Collector: A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall, or other element in whole or in part of a building. Also includes building-integrated photovoltaic systems (BIPV).
- F. Ground-Mounted Solar Energy Collector: A solar energy collector that is not attached to and is separate from any building on the lot on which the solar energy collector is located.
- G. Small-Scale Solar Energy Collector: A solar energy collector primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic (BIPV) systems, ground-mounted solar energy collectors, or building-mounted solar energy collectors.
- H. Photovoltaic System: A collection of solar panels and related equipment and components used to convert light into electrical power.
- I. Utility Scale Solar Energy System: A solar energy system that meets one or more of the following:
 - 1. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
 - 2. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
 - 3. It is not considered an accessory use or structure by the Township Zoning Administrator.

Section 2. Amendment of Section 5.02; Table 5-1. Section 5.02, Table 5-1 of the Shelby Community Zoning Ordinance is amended such that the use "Utility Scale Solar Energy Systems" is added in alphabetical order as a Special Land Use within the Non-Agricultural Uses category.

Section 3. Amendment of Section 6.02; Table 6-1. Section 6.02, Table 6-1 of the Shelby Community Zoning Ordinance is amended such that the use "Utility Scale Solar Energy Systems" is added in alphabetical order as a Special Land Use within the RR, Rural Residential and R-1, Low Density Residential districts within the Non-Residential Uses category.

Section 4. Amendment of Section 8.02; Table 8-1. Section 8.02, Table 8-1 of the Shelby Community Zoning Ordinance is amended such that the use "Utility Scale Solar Energy Systems" is added in alphabetical order as a Special Land Use within the C-2, General Business District, and C-3, Highway Commercial District.

Section 5. Amendment of Section 9.02; Table 9-1. Section 9.02, Table 9-1 of the Shelby Community Zoning Ordinance is amended such that the use "Utility Scale Solar Energy Systems" is added in alphabetical order as a Special Land Use within the IND – Industrial