

**SOLAR ENERGY
TEXT AMENDMENTS TO THE ASH TOWNSHIP ZONING ORDINANCE
AS ADOPTED BY THE ASH TOWNSHIP BOARD ON AUGUST 18, 2021**

Amendment #1 – Add new Definitions to Section 2.02

Solar Energy Systems:

1. Photovoltaic Device: A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, regardless of whether the device can store the electric energy produced for later use.
2. Solar Array: Any number of Photovoltaic Devices connected to provide a single output of electric energy or other energy.
3. Solar Energy System, Abandoned: Any Solar Energy System, Solar Array or combination of Photovoltaic Devices that remains nonfunctional or inoperative to the extent that it not used to generate electric energy for a continuous period of twelve months.
4. Solar Energy System, Large: A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end user, and the power output of that system is equal to or greater than 25 kilowatt (kW).
5. Solar Energy System, Small: A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primarily for personal consumption by a single end user at the same property upon which the solar energy system is located, with a generating capacity of less than 25 kilowatt (kW).
6. Unreasonable Safety Hazard: Any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness or personal injury may occur to any member of the general public, including but not limited to trespassers or emergency services personnel. Adherence by the property owner or occupants to industry standards for safeguarding against such risks will be taken into consideration in determining whether a condition poses an unreasonable safety hazard.

Amendment #2 – Revise Existing Section 21.23 to address Small Solar Energy Systems

Section 21.23 Small Solar Energy Systems.

Small solar energy systems, as defined in this Ordinance, may be permitted as an accessory use in any zoning district, subject to the following standards:

1. Any small solar energy system mounted on the ground shall be located only in the rear yard and must comply with all accessory use, bulk, and setback requirements of the district. The height of any small solar energy system mounted on the ground shall not exceed six (6) feet when orientated at a maximum tilt as measured from the existing grade.
2. Ground installation shall provide landscaping and fencing insofar as possible to screen the installation from adjacent properties.
3. All power transmission lines from a ground mounted small solar energy system to any building or other structure shall be located underground.
4. Any small solar energy system erected on a building shall not extend beyond the peak of the roof. For systems erected on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached; however, it shall be so located or architecturally concealed by a parapet wall or screen so that the system is not visible from abutting road rights-of-way or private road easements.
5. No small solar energy system shall be installed in such a way as to pose an unreasonable safety hazard, as defined in this Ordinance.
6. All small solar energy systems must be installed in a manner ensuring that concentrated solar glare shall not be directed onto nearby properties or roadways.
7. All small solar energy systems must conform to all applicable federal, state, and county requirements, in addition to other applicable Township Ordinances, as well as any applicable industry standards.
8. An abandoned small solar energy system, as defined in this Ordinance, shall be removed by the property owner within six (6) months.

Amendment #3 – Add New Section 21.37 to address Large solar energy systems

Section 21.37 Large solar energy systems.

1. *Purpose and Intent.* The purpose and intent of this Section is to establish standards for the siting, installation, operation, repair, decommissioning and removal of large solar energy systems, as defined in this Ordinance.
2. *Special Land Use.* Large solar energy systems may be allowed by the Township Board, upon recommendation of the Planning Commission, as a special land use

in the AG, RE, C-2, C-3, FS, I-1 and I-2 Districts, in accordance with the procedures and requirements of Article 16.

3. *Site Plan Drawing and Supporting Materials.* All applications for a large solar energy system must be accompanied by detailed site plans. In addition to the requirements of Section 17.03, the following additional information shall be provided:
 - a. Location and height of all proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with the large solar energy system.
 - b. Horizontal and vertical elevation scale drawings with dimensions that show the location of the proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
 - c. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the large solar energy system and within 1,000 feet of the outside perimeter of the large solar energy system.
 - d. Proposed setbacks from the solar array(s) to all boundary lines and all existing and proposed structures within the large solar energy system.
 - e. Land elevations for the solar array(s) location and the relationship to the land elevations of all existing and proposed structures within the large solar energy system.
 - f. Access driveways within and to the large solar energy system, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access drives shall be subject to Monroe County Road Commission or Michigan Department of Transportation approval as appropriate and shall be planned to minimize the use of lands for that purpose.
 - g. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during the construction, operation, removal, maintenance or repair of the large solar energy system.
 - h. A written description of the maintenance program to be used for the solar array(s) and other components of the large solar energy system, including decommissioning and removal procedures when determined by the Township to be obsolete, uneconomic or an abandoned solar energy system. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the large solar energy system becomes obsolete, uneconomical or an abandoned solar energy system.
 - i. A copy of the manufacturer's safety measures.
 - j. Planned lighting protection measures.
 - k. The environmental impact of the large solar energy system, as reflected in an environmental impact study, including, but not limited to, a review of the following factors:
 - 1) Impact on area water resources.

- 2) Impact on air quality.
 - 3) Noise impacts caused by the solar energy system.
 - 4) Impact on utilities and infrastructure.
 - 5) Protection of neighboring property owners and children.
 - 6) Impact on wildlife.
 - 7) Effects on floodplains and wetlands.
 - 8) Unique farmlands or soils.
 - 9) Areas of aesthetic or historical importance.
 - 10) Archeological or cultural concerns.
 - 11) Any other environmental factors typically evaluated by other members of the commercial energy industry when evaluating locations for a proposed power generating facility.
- l. A written description of measures to be taken to support the flow of rainwater throughout the large solar energy system, including any measures to promote the growth of vegetation beneath the arrays and/or otherwise limit the impacts of storm water runoff. The measures shall be subject to the approval of the Monroe County Drain Commissioner.
 - m. A written contract with any energy provider or other purchaser of the energy produced by the large solar energy system, demonstrating a commitment to purchase such energy. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential only to the extent and as authorized by Public Act 442 of 1976.
 - n. Additional detail(s) and information as required by the special land use requirements of the Zoning Ordinance, or as required by the Township.
4. *Application Escrow Deposit.* An escrow deposit shall be paid to the Township by the applicant when the applicant applies for a special land use permit for a large solar energy system. The monetary amount deposited by the applicant in escrow with the Township shall be the amount estimated by the Township to cover all reasonable costs and expenses associated with the special land use permit review and approval process, which shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner, and Township Engineer, as well as costs for any reports or studies that are reasonably related to the zoning review process for the application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special land use permit review process, the Township may require that the applicant place additional funds into escrow with the Township if the existing escrow amount deposited by the applicant is deemed insufficient by the Township. If the escrow account needs replenishing and the applicant refuses to do so promptly, the special land use permit process shall cease unless and until the applicant makes the required additional escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township must also be complied with by the applicant.

5. *Compliance with the State Building Code and the National Electric Safety Code.* Construction of a large solar energy system shall comply with the National Electric Safety Code and the state construction codes as administered and enforced by the Township or County (as shown by approval by the Township or County) as a condition of any special land use permit under this section.
6. *Certified Solar Array Components.* Components of a Solar Array 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 acceptable to the Township.
7. *Height.* Maximum height of a solar array shall not exceed fifteen (15) feet. Other collection devices, components or buildings of the large solar energy system shall not exceed thirty-five (35) feet, or the maximum building height permitted within the district in which that solar energy system is located, whichever is less, at any time or location on the property. The height shall be measured from the natural grade at the base of the solar array, device, component or building measured. The Township may waive or modify these height requirements for certain aspects of a solar energy system (such as structures associated with above-ground transmission lines) through the implementation of conditions when appropriate.
8. *Lot Size.* A large solar energy system shall be located on zoning lot with an aggregate area of not less than ten (10) acres.
9. *Setbacks.* A minimum setback distance of one-hundred (100) feet from all property boundaries to the outside perimeter of the large solar energy system shall be required for all buildings and solar arrays.
10. *Lot Coverage.* A large solar energy system is exempt from maximum lot coverage limitations.
11. *Security.* A large solar energy system shall be completely enclosed by perimeter security fencing to restrict unauthorized access.
12. *Screening.*
 - a. Unless screened and buffered at all times by natural forest vegetation meeting the minimum spacing and height requirements, and having a substantially similar obscuring effect of an evergreen vegetative buffer installed pursuant to this Section, a continuous evergreen vegetative buffer shall be installed and maintained at all times at the perimeter of all large solar energy systems, including without limitation between such large solar energy systems and adjacent residential or agricultural areas and/or public highways or streets. Nothing contained herein shall be construed to prevent reasonable access to any large solar energy system as approved by the special land use permit.
 - b. The continuous evergreen vegetative buffer shall consist of staggered rows of evergreen trees a minimum of five (5) feet in height at the time of planting, spaced a minimum of fifteen (15) feet apart measured on center, and having

a minimum projected height of twenty (20) feet. The Township may approve alternative plantings having a substantially similar effect.

- c. All plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the Township and the applicant is unable to plant during the installation period, the applicant will provide the Township with a letter of credit, surety, or corporate guarantee for an amount equal to 1.5 times 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.
13. *Signage.* No lettering, company insignia, advertising, graphics or other commercially-oriented inscriptions or designs shall be on any part of the solar arrays or other components of the large solar energy system. This Section does not prohibit signs reasonably necessary to inform the public of potential safety hazards associated with the large solar energy system, nor does it prohibit any other signs that may be required by this Ordinance, the special land use permit, or other applicable law.
 14. *Noise Emissions.* No component of any large solar energy system shall emit noise exceeding a sound pressure level of 50 dB(A) as measured at the outside perimeter of the project. This sound pressure level shall not be exceeded for more than 6 minutes (L 10) in any hour of the day. If the ambient sound pressure level exceeds 50 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
 15. *Glare.* All solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.
 16. *Distribution, Transmission, and Interconnection.* All collection lines and interconnections from the solar array(s) to any electrical substations shall be located and maintained underground inside the large solar energy system. The Township may waive this requirement, or modify it with appropriate conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such collection lines and interconnections underground.
 17. *Abandonment and Decommissioning.*
 - a. Following the operational life of the project, or at the time the project becomes obsolete, uneconomic or an abandoned solar energy system, as determined by the Township Engineer or any other expert or specialist to be designated by the Township to make such a determination, the applicant shall perform decommissioning and removal of the large solar energy system and all its components.
 - b. The applicant shall prepare a decommissioning plan, agreement, and bond for submittal to the Planning Commission and the Township Board for review prior to issuance of the special land use permit. Under this plan, all structures and facilities shall be removed, including any structures below-grade, and removed offsite for disposal. No concrete, piping and other materials may be left in place. Any solar array or combination of photovoltaic devices that become an abandoned solar energy system shall be removed under the decommissioning plan. The ground must be restored to its pre-construction

condition within 170 days of becoming an abandoned solar energy system, or decommissioning, whichever occurs first.

18. *Safety.* The Township shall not approve large solar energy system special land use permit if it finds the large solar energy system will pose an unreasonable safety hazard to occupants of any surrounding properties or area wildlife.
19. *Inspection.* The Township shall have the right at any reasonable time to inspect the premises on which any large solar energy system is located. The Township may hire one or more consultants to assist with any such inspections, at the applicant's or project owner's expense.
20. *Maintenance and Repair.* Each large solar energy system must be kept and maintained in good repair and condition at all times. If the Township Chief Enforcement Officer determines that a large solar energy system fails at any time to meet the requirements of this Ordinance and the special land use permit, or that it poses a potential unreasonable safety hazard, the applicant shall shut down the large solar energy system within 48 hours after notice by the Chief Enforcement Officer and not operate, start, or restart the large solar energy system until the condition has been corrected. Applicant shall keep a maintenance log on the solar array(s), which shall be available for the Township's review on a monthly basis. Applicant shall keep all sites within the large solar energy system neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions.
21. *Roads.* Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of a Large solar energy system shall be repaired at the applicant's expense. In addition, the applicant shall submit to either the Monroe County Road Commission or MDOT (as appropriate) a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the appropriate agency in an amount necessary to assure repair of any damage to the public roads caused by construction of the large solar energy system or any of its elements.
22. *Continuing Security and Escrow.* If any large solar energy system is approved for construction under this Section, the applicant shall be required to post continuing security and a continuing escrow deposit prior to the commencement of construction, which shall remain in effect until the large solar energy system has been finally removed, as provided below:
 - a. *Continuing Restoration Security:* If a special land use permit is approved pursuant to this section, the Township shall require security in the form of a cash deposit, letter of credit, or surety bond acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this Section and all conditions of approval. When determining the amount of each required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or its equivalent or successor). Such financial guarantee shall be deposited or filed with Township Clerk after a special land use permit has been

approved but before construction commences on the large solar energy system. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the large solar energy system. Such financial security shall be kept in full force and effect during the entire time that the large solar energy system exists or is in place, and such financial security shall be irrevocable and non-cancelable. In addition, the party operating a large solar energy system approved by the Township shall inform the Township in the event that system, or a material portion of that system is sold to a third party, and any such sale shall require the purchasing party to provide the Township with the security described by this section, along with relevant contact information.

- b. *Continuing Compliance and Enforcement Escrow Deposit:* A continuing escrow deposit shall be held by the Township and shall be funded by a cash deposit, letter of credit, or surety bond by the applicant prior to the commencement of construction of any large solar energy system and shall be maintained by the owner or operator until the large solar energy system has been permanently decommissioned and removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special land use permit, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that the Township determines are reasonably related to enforcement of the Ordinance and the special land use permit. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require the applicant to place additional monies into escrow with the Township.

23. *Completion of Construction.* The construction of any large solar energy system must commence within a period of one (1) year from the date a special land use permit is granted and must be completed within a period of three (3) consecutive years from the date a special land use permit is granted. The Township may grant an extension not to exceed one (1) year, provided the applicant requests the extension prior to the date of the expiration of the special land use approval. Failure to complete construction within the 10 permitted time period shall result in the approved special land use permit being rendered null and void.
24. *Transfer of Ownership/Operation.* Prior to a change in the ownership or operation of a large solar energy system, including, but not limited to, by the sale or lease of that system or the underlying property, the current owner or operator shall provide written notice to the Township at least sixty (60) days prior to that change becoming effective. This notice shall inform the Township of the intended transfer of control of the large solar energy system and shall include a copy of the instrument or agreement effecting that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the large solar energy system shall not be permitted to operate that system until

compliance with the terms of this Section, including requirements for continuing security and escrow funds, has been established.