

Solar Ordinance

11/11/2022 DRAFT

Items in yellow highlighting – changes approved at Oct. and Nov. meeting.

A. Definitions

Abandoned/Abandonment: To give up, discontinue, withdraw from. Any solar energy facility that ceases to produce energy on a continuous basis for one hundred eighty (180) days will be considered abandoned.

Applicant: This term applies to a person, company, or other legal entity ~~who files a petition or makes an application~~ **under this ordinance.** ~~the petitioner; or the person who is applying for a legal remedy to a problem. A person applying for a permit to build.~~

Building Integrated Photovoltaics (BIPVs): A Solar Energy System that is integrated into the structure of a building.

Component: To include any equipment from the Utility Scale Solar Energy Facility prior to the point of interconnection at the transmission line.

Decommission Plan: A document that details the planned shut down or removal of a solar energy facility from operation or usage.

Dwelling: A building that is occupied as a home, residence or sleeping place by one or more persons.

Fence: A continuous barrier extending from the surface of the ground to a uniform height from the ground to any given point, constructed of steel chain link, or other suitable material of similar nature and strength.

Ground-mounted Solar Energy System: A Solar Energy System that is not attached to, or mounted, to any roof or exterior wall of any principal or accessory building

Height: The height of the solar array of the Utility Solar Energy Facility when it is at its highest point at maximum tilt.

IEC: International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic, and related technologies.

Inhabited Structure: Any existing structure usable for living or non-agricultural commercial purposes, which includes but is not limited to working, sleeping, eating, cooking, recreation, office, 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.

ISO: International Organization for Standardization. ISO is an international standard-setting body composed of representatives from various national standards organizations.

Non-Participating Parcel: A property that is not subject to a Utility Scale-Solar Energy Facility lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing an Utility Scale Solar Energy Facility.

Operator: Entity charged with the daily operation/maintenance of a Utility Scale Solar Energy Facility.

Owner of Facility: A person, company, or other legal entity, with legal ownership of real property who can lease or mortgage the property as collateral for a loan.

Owner of Land: A person, company, or other legal entity, with legal ownership of the Utility Scale Solar Energy Facility.

Participating Parcel: A property participating in a lease or easement agreement, or other contractual agreement, with an entity submitting a Special Land Use Permit application for the purposes of developing a Utility Scale Solar Energy Facility.

Private Solar Energy System: A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale or credit of surplus electrical energy back to the electrical grid.

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

Solar Array: Multiple solar panels that collect energy from the sun to generate electricity as part of a Solar Energy System.

Solar Energy System: Equipment and components designed to collect energy from the sun to generate electricity.

Utility Scale Solar Energy Facility: A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or for the wholesale or retail sale of generated electricity to any person or entity.

Utility Scale Solar Energy Facility Permit: A permit issued upon compliance with standards of this Ordinance.

B. Utility Scale Solar Energy Facility

1. **Purpose and Intent:** The purpose and intent of this Subsection is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of a Utility Scale Solar Energy Facility within the Agricultural and Industrial District as a Special Land Use.
2. **Site Plan Drawing and Supporting Materials:** All applications for a Utility Scale Solar Energy Facility must be accompanied by a detailed site plan, drawn to scale with dimensions and certified by a registered engineer licensed by the State of Michigan, displaying the following information;
 - a. All requirements for a site plan contained in the County Zoning Ordinance.
 - b. Vicinity map showing the location of all surrounding land uses.
 - c. All lot lines and dimensions, including a legal description of each lot or parcel comprising the Utility Scale Solar Energy Facility.

- d. Names of owners of each lot or parcel that is proposed to be within the Utility Scale Solar Energy Facility and other parcels within 300'.
- e. Horizontal and vertical (elevation) scale drawings with dimensions that show the locations and heights of the proposed Solar Array(s), buildings, structures, above ground structures and utilities on the property.
- f. Setbacks from the Solar Array(s) to all boundary lines and all existing and proposed structures within the Utility Scale Solar Energy Facility .
- g. Photos of current condition of land, and a written description of soil conditions and other land features as of the time of the application. This is also to be included with ~~eventual Abandonment and~~ the Decommissioning plan.
- h. Location of all existing ~~electrical transmission or distribution lines utility easements on record~~ within the Utility Scale Solar Energy Facility. Electrical lines shall be clearly defined with information whether lines are overhead or underground. ~~Copies of any utility easements or other agreements of approval for such lines, shall be provided.~~
- i. Access driveways within and to the Utility Scale Solar Energy Facility, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway; all access drives shall be subject to the Huron County Road Commission or Michigan Department of Transportation approval, as appropriate, and shall be planned so as to minimize the use of lands for that purpose.
- j. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during construction, operation, removal, maintenance, or repair of the Utility Scale Solar Energy Facility.
- k. A written description of the maintenance program to be used for the Solar Array(s) and other components of the Utility Scale Solar Energy Facility, including a decommissioning plan and removal procedures. The description shall include design of site, construction plan, types, and sizes of panels with description including materials composing panels, and number of panels.
- l. Safety measures to neighboring properties or roadways.

- m. A glare study shall be conducted by a third-party qualified professional to determine if glare from the Utility Scale Solar Energy Facility will be visible from nearby residents and roadways. ~~If applicable, the~~ The study shall consider the changing position of the sun throughout the day and year.
- n. A Phase I Environmental Site Assessment.
- o. If the following information is not included in the Phase I Environmental Site Assessment, an additional environmental report describing the environmental impact of the Utility Scale Solar Energy Facility, including, but not limited to, a review of the following factors:
 - i. Impact on area water resources
 - ii. Impact on air quality,
 - iii. Impact by sound caused by the Utility Scale Solar Energy Facility. A modelling study shall be provided to show compliance with ordinance sound requirements at project boundaries. This study shall include sound isolines extending from the sound source to the property lines.
 - iv. Impact on utilities and infrastructure.
 - v. Impact on wildlife.
 - vi. Effects on flood plains and wetlands.
 - vii. Identify all woodlots in each Utility Scale Solar Energy Facility.
 - viii. Unique farmlands or soils.
 - ix. Areas of aesthetic or historical importance.
 - x. Archeological or cultural concerns,
- p. A written description of measures to be taken to support the flow of rainwater throughout the Utility Scale Solar Energy Facility, including any measures to promote the growth of vegetation beneath the Solar Array(s) and/or otherwise limit the impacts of storm water runoff. The measures shall be subject to the approval of the Huron County Drain Commissioner.
- q. A written report describing the economic impact to the County and all power output and electrical energy capacity to be generated to the electrical grid by the Utility Scale Solar Energy Facility. This report shall include estimated improvement values.

- r. Any other environmental factors typically evaluated by other members of the Commercial Energy industry when evaluating location for a proposed power-generating facility.
- s. Application Bond: A Permit Performance Bond or other payment guarantee acceptable to the County shall be submitted to the County by the applicant when the applicant applies for a Special Land Use Permit for a Utility Scale Solar Energy Facility. The monetary amount of the bond shall be estimated by the County to cover all reasonable costs and expenses associated with the Special Land Use Permit review and approval process, which costs shall include, but are not limited to, reasonable fees of the County Attorney, County Planner, County Engineer, as well as costs for any reports or studies that reasonably relate to the zoning review process for the application. Such bond 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 County may require that the applicant increase the amount of the bond if the existing bond amount submitted by the applicant is deemed insufficient by the County. If the applicant refuses to so increase the bond amount promptly, the Special Land Use Permit process shall cease unless and until the applicant increases the amount of the bond. Any applicable bonding resolutions or other ordinances adopted by the County must also be complied with by the applicant.
- t. A post construction “as built”, to scale drawing shall be submitted to the Zoning Administrator for compliance.
- u. Abandonment and Decommissioning plan. That plan shall include photos of current condition of land. See Section N. “Abandonment and Decommissioning.”

C. Compliance with the State Building Code and the National Electrical Safety Code: Construction of a Utility Scale Solar Energy Facility shall comply with the National Electric Safety Code and the State Construction Codes, as administered and enforced by the County as a condition of any Special Land Use Permit under this section.

D. **Certified Solar Array Components** of a Solar Array shall be approved by the Institute of Electrical and Electronics Engineers (“IEEE”), Electronic Testing Laboratories (“ETL”), or other similar certification organization acceptable to the County.

E. **Height:**

1. Maximum height of a Solar Array shall generally not exceed twenty (20) feet from the ground level under each individual solar panel to the highest point of each panel, except as follows. Land surface undulations and swales may be factored into height measurements so that no more than 50% of the array shall exceed the twenty (20) feet height limitation.
2. Other collection devices (not including the Solar Array), accessory structures, and other components or buildings of the Utility Scale Solar Energy Facility, shall not exceed the maximum building height permitted within the district in which that Solar Energy Facility is located, at any location on the property. The height shall be measured from the natural grade at the base of the device, component or building measured.

F. **Project Area:**

1. The number of total acres, directly dedicated to solar arrays allowed by Special Use Permits to be used as Utility Scale Solar Energy Facilities in all agricultural or industrial zones in those townships zoned by the County, shall not exceed 15,000 combined acres. Acreage for this purpose shall be defined by the number of acres of area directly dedicated to solar arrays within parcels leased, contracted, or purchased by the Special Use Permit applicant for the purpose of installing a Utility Scale Solar Energy Facility. The Planning Commission shall deny any Special Use Permit application that requests a number of acres that, when added to all other acres in the County permitted for such use, exceeds 15,000 acres.

2. The general Zoning Ordinance provision limiting coverage to 15% of lot size shall not be applied to the construction of a Utility Scale Solar Energy Facility; i.e., there shall be no percentage limit to the area of construction within a parcel that has been approved for construction of a Utility Scale Solar Energy Facility, so long as applicable setbacks are maintained.

G. **Setbacks:** A minimum setback distance of sixty (60) feet from all lot lines of non-participating property owners on the outside perimeter of the Utility Scale Solar Energy Facility's fence, shall be required for all buildings and solar arrays except for property lines defined by road right-of-ways, and except for property boundaries where the applicable adjoining property owner(s) have provided a written waiver of this requirement in recordable form and recorded it with the County Register of Deeds, provided no such waiver shall act to permit less than the required minimum setback of the applicable zoning district. Fencing and other aspects of the landscaping and screening/buffering plan as noted in Section I (Screening/Security), may be situated within the setback. The Utility Scale Solar Energy Facility operator shall maintain grounds located within setbacks, either through their own maintenance organization or by allowing the property owner to farm the land. A Utility Scale Solar Energy Facility shall in all other respects comply with Sections 9.01 and 9.02 of the Zoning Ordinance. Property line setbacks do not apply to contiguous participating parcels within a given Section.

H. **Screening/Security:** The special land use application shall include a proposed landscaping, fencing, and screening/buffering plan. This plan shall be reviewed through the special land use approval process to assure that the proposed facility is appropriately landscaped in relation to adjacent land uses and road rights-of-way. The use of berms and/or evergreen plantings along the property lines adjacent to residential-zoned or developed parcels may be required as a buffer by the Planning Commission. In any event, a Utility Scale Solar Energy Facility shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be a

minimum of four (4) feet in height and measured from the natural grade of the fencing perimeter. Location of such fencing shall be subject to approval of the County. Electric fencing is not permitted.

- I. **Signage:** There shall be a name and emergency telephone number posted on the fence, at all times, of the person(s) responsible for the maintenance and emergency. Signage of the facility shall in all other instances be governed by the County's general Zoning Ordinance. Signage shall be placed on fencing facing Public Road right-of-way' and other locations designated by the Planning Commission as part of the site plan review process.

- J. **Sound:** No component of any Utility Scale Solar Energy Facility shall emit noise exceeding fifty (50) dBa Leq (1 hour) from 7 a.m. to 10 p.m. for dwellings of participating properties, nor exceeding forty-five (45) dBa Leq (1 hour) from 10 p.m. to 7 a.m. for dwellings of participating properties, nor exceeding forty-five (45) dBa Leq (1 hour) at any time for dwellings of non-participating properties. Sound values shall be measured at the property line boundary of the Utility Solar Energy Facility.
 - 1. "Component" shall include any equipment from the Utility Scale Solar Energy Facility prior to the end hook up to the final transmission line.
 - 2. Sound testing, or industry equipment documentation documenting sound emissions, required for each application, shall be performed by a firm chosen approved by the County and paid for through the Application Bond by the Applicant.

- K. **Lighting:** All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.

- L. **Distribution, Transmission, and Interconnection:** The electrical collection system shall be placed underground within the interior of each parcel at a minimum depth five (5) feet when placed outside of fenced Utility Scale

Solar Energy Facility. Any communication system lines shall be placed underground to a minimum depth of four (4) feet when placed outside of fenced Utility Scale Solar Energy Facility. The final location of the electrical collection system installation shall be identified by GPS location when placed outside of fenced Utility Scale Solar Energy Facility. The actual installed burial depth of underground wiring shall be verified by the developer of the Utility Scale Solar Energy Facility. The developer shall provide certification from the installing contractor of the actual installed burial depth of all underground wiring. Such certification shall be under the penalty of perjury. The collection system may be placed overhead adjacent to County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary as necessary.

M. Abandonment and Decommissioning: When the operational life of the project has ceased, or at the time the project is declared abandoned as determined by the Zoning Administrator, the Facility Owner/Operator applicant shall perform decommissioning and removal of the Utility Scale Solar Energy Facility and all its components per the requirements of the approved decommissioning plan.

1. The Applicant shall prepare a decommissioning plan and submit it to the Planning Commission for review and approval prior to issuance of the Special Land Use Permit. The plan shall include an estimated cost of decommissioning and shall include or describe any agreement with the landowner regarding equipment removal or alteration to the land upon termination of the lease. Under this plan, all structures and facilities shall be removed, including any structures below-grade (not including buried cables), 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.
2. Following the completion of the decommissioning, the Facility Owner/Operator Applicant shall conduct a Phase I environmental site

- assessment similar to the one required at the beginning of the Utility Scale Solar Energy Facility's operation, and send the results to the Zoning Administrator.
3. The ground must be restored to its original condition as near as practical within one hundred eighty (180) days of becoming an Abandoned Solar Energy System or any components thereof. Two exceptions to the 180-day period:
 - i. An exception to this requirement shall be granted by the County if the Utility Scale Solar Energy Facility operator provides reasonable justification for an extension, or
 - ii. An exception to this requirement shall be granted for those conditions that the landowner provides written consent to remain the same or to provide a designated delay beyond the 180-day period. Any costs incurred by the County in pursuing such activities shall be at the expense of the Applicant/**Facility** Owner, including the Applicant/**Facility** Owner's continuing restoration security as provided by this section.
 4. If applicable, any green belt vegetation shall be removed unless landowner opts to have it remain.
 5. Photos of the original condition and lay of the land to be included in the application.
 6. A performance bond acceptable to the County must be maintained with the County to cover costs to decommission solar panels and equipment and to restore land in an amount approved by the County. **If the Huron County Planning Commission permits, the performance bond may name both the County of Huron and the State of Michigan as performance co-obligees.**
 7. The Decommissioning Plan shall include provisions for recycling.
 8. If any Utility Scale Solar Energy Facility is shut down for 180 days or more, it shall be decommissioned. The **Facility Owner/Operator** applicant may request an extension, provided they provide documented reasons for the shut down and the reason for the extension request. The

Planning Commission will be responsible for approving such an extension.

- N. **Health and Safety:** The Planning Commission shall not recommend for approval any Utility Scale Solar Energy Facility Special Land Use Permit if it finds the Utility Scale Solar Energy Facility will pose an unreasonable safety hazard to the occupants of any surrounding properties or area wildlife.
- O. **Inspection:** The County Zoning Administrator shall have the right to inspect the premises on which a Utility Scale Solar Energy Facility is located, with a 48-hour notice of planned inspection to operator of the facility. The County may hire one or more consultants to assist with any such inspections, at the expense of the Facility Owner/Operator applicant.
- P. **Performance Reports:** Upon request by the County, but not more frequently than annually, the Facility Owner/Operator shall submit a performance report to the Planning Commission. ~~This timeframe will give the owner/operator time to gather the annual report and time for the panels to "settle in".~~
- Q. **Maintenance and Repairs:** Each Utility Scale Solar Energy Facility must always be kept and maintained in good repair and condition.
- a. The Facility Owner/Operator shall keep all sites within the Utility Scale Solar Energy Facility neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions.
 - b. If the County Zoning Administrator determines that a 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 Facility Owner/Operator shall shut down the Utility Scale Solar Energy Facility within forty-eight (48) hours after notice by the Zoning Administrator, and not operate, start, or restart the Utility Scale Solar Energy Facility until the condition has been corrected.

c. Upon request by the County, but not more frequently than annually, the Facility Owner/Operator shall submit a repairs and improvements report to the Planning Commission. Such report shall include an update of any incomplete repairs. ~~an annual report of all improvements, equipment updates, panel replacements, and maintenance performed shall be submitted to the County.~~

R. Roads: Any material damages to a public road located within the County resulting from the construction, maintenance, or operation of a Utility Scale Solar Energy Facility shall be repaired at the Facility Owner/Operator's applicant's expense. In addition, the Facility Owner/Operator's applicant shall submit to either the Road Commission or Michigan Department of Transportation (as appropriate) a description of the routes to be used by construction and delivery vehicles and any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries. Any improvement projects must be approved by the appropriate agencies.

S. Conditions: The Planning Commission may impose additional reasonable conditions on the approval of a Utility Scale Solar Energy Facility as a Special Land Use.

T. Completion of Construction: the construction of any Utility Scale Solar Energy Facility must commence within a period of one (1) year from the date that a Special Land Use Permit is granted, and must be completed within a period of two (2) consecutive years from the date a Special Land Use Permit is granted. The Planning Commission may grant upon request an extension with a new completion deadline, provided the facility owner/operator requests the extension at least 30 days prior to the date of the expiration of the Special Land Use approval. Failure to complete construction within the permitted time period may result in the approved Special Land Use Permit being rendered null and void.

U. **Complaint Resolution Process:** The Complaint Resolution Process in Section 7.01 of the Zoning Ordinance applies. If the complainant fails to reasonably cooperate with the County's investigation of the complaint, the complaint process shall be terminated. Examples of a failure to reasonably cooperate in the investigation shall include, but not be limited to, failure of the complainant to allow and provide access to the complainant's property.

V. **Transfer of Facility Ownership/Operation:** The County shall be notified of any intent to transfer the ownership of the Utility Scale Solar Energy Facility and reassignment of a Special Land Use Permit. The current facility owner or operator shall provide written notice to the County at least sixty (60) days prior to when an agreement to change the ownership of the Facility becomes effective. This notice shall inform the County of the intended transfer of control of the Utility Scale Solar Energy Facility. Such an instrument or agreement shall include an express statement that the new owner or operator of the Utility Scale Solar Energy Facility shall not be permitted to operate that Facility until compliance with the terms of this ordinance have been met, including requirements for surety bonds.

W. **LITIGATION:** Any litigation, ~~as a result of suit~~ by the County against the Applicant/Facility Owner/Operator or by the Applicant/Facility Owner/Operator against the County, shall be litigated in the State of Michigan.

X. ENFORCEMENT:

d. Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and the penalties and manner in which this Ordinance shall be enforced shall be governed by Article XXII (Enforcement, Penalties, and Other Remedies) of the general Zoning Ordinance of the County of Huron.

e. False report of official complaint: any person who intentionally makes a false complaint or intentionally causes a false report of a complaint or violation of this ordinance to the official in charge of enforcing this

ordinance, knowing the report is false, is guilty of a civil infraction, and upon a finding of responsibility is subject to a fine of up to \$500.00 for each violation and all costs associated with the investigation and prosecution thereof.

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