

**ONTWA TOWNSHIP  
COUNTY, MICHIGAN  
(Ordinance No. 2023-02.4)**

**ADOPTED 2-13-2023 EFFECTIVE 3-20-2023**

At a regular meeting of the Ontwa Township Board held at the Ontwa Township Hall held on February 13<sup>th</sup>, 2022, beginning at 7:00 p.m., Township Board Member Christensen made a motion to adopt this Ordinance/ordinance amendment, which motion was seconded by Township Board Member Kozinski.

**AN ORDINANCE TO AMEND THE ONTWA TOWNSHIP ZONING ORDINANCE; TO AMEND ARTICLE II TO ADD A NEW SECTION 2.46A FOR DEFINITIONS RELATED TO SOLAR ENERGY SYSTEMS; TO AMEND ARTICLE III TO ADD A NEW SECTION 3.38 FOR SMALL-SCALE SOLAR ENERGY SYSTEMS; TO AMEND ARTICLE V, SECTION 5.02 TO ADD A NEW SUBSECTION (S) RELATED TO UTILITY SCALE SOLAR ENERGY SYSTEMS.**

ONTWA TOWNSHIP HEREBY ORDAINS:

**Section 1. Amendment of Article II.** Article II of the Ontwa Township Zoning Ordinance is amended to include the following new Section 2.46A, which reads in its entirety as follows:

SECTION 2.46A. SOLAR ENERGY COLLECTOR OR SYSTEM: A system or facilities (including solar collector surfaces, panels and/or ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and/or 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.

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.

Property Owner or Lessor: Any person, agent, firm, corporation, limited liability company, or partnership that alone, jointly, or severally with others: (1) has legal or equitable ownership or title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, possession, care, or control of any premises, dwelling or dwelling unit, as an 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 Cass County Register of Deeds to be the owner of a particular property shall be presumed to be the person who owns or is in control of that property.

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.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

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. This also includes building-integrated photovoltaic systems ("BIPV").

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.

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 systems ("BIPV"), ground-mounted solar energy collectors, and/or building-mounted solar energy collectors.

Photovoltaic System: A collection of solar panels and related equipment and components used to convert light or heat into electrical power.

Utility Scale Solar Energy System: A solar energy system that meets one or more of the following:

- A. It is primarily used for generating electricity for sale and/or distribution off site to an authorized public utility or other firm for use in the electrical grid;
- B. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
- C. It is not considered an accessory use or structure by the Township Zoning Administrator.

**Section 2. Amendment of Article III.** Article III of the Ontwa Township Zoning Ordinance is amended to include the following new Section 3.38, which reads in its entirety as follows:

### 3.38 SMALL-SCALE SOLAR ENERGY SYSTEMS

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 mounted less than five (5) feet above the ground, nor does this section apply to the larger utility scale solar energy collector systems, which are regulated in Section 5.02(s).

- a) General requirements.

- 1) 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.
  - 2) Applications. In addition to all other required application contents as listed in Section 20.02, equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from all lot lines and adjacent structures shall be submitted along with the zoning permit application for review by the Zoning Administrator in a hard copy and electronic form designated by the Township.
  - 3) Glare and Reflection. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. Such collectors shall not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads.
  - 4) Installation.
    - a. A small-scale solar energy collector shall be permanently and safely attached to the ground or a structure or building. Solar energy collectors, and their installation and use, shall comply with all building codes and all other applicable Township and state requirements.
    - b. 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.
  - 5) Power Lines. On-site power lines between solar panels and inverters shall be installed and maintained underground pursuant to applicable building and electrical codes.
  - 6) Abandonment and Removal. A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months or more will be considered abandoned unless the responsible party with an 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 installation of the system within one (1) year of abandonment.
- b) 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.
- 1) Maximum Height. The maximum height permitted in the zoning district in which the building-mounted solar energy collectors are located shall not be exceeded by more than three (3) feet by such collectors.
  - 2) Obstruction. Building-mounted solar energy collectors shall not obstruct or impede solar access to adjacent properties.

- c) Ground-Mounted Solar Energy Collectors. These systems are permitted in all zoning districts subject to the following conditions.
- 1) Rear and Side Yards. The equipment and collectors may be located in the rear yard or the side yard but shall be subject to the setbacks for accessory structures.
  - 2) Front Yard. The equipment and collectors may be located in the front yard only if located no less than one hundred (100) feet from the front lot line.
  - 3) Obstruction. Ground-mounted solar energy collectors shall not obstruct or impede solar access to adjacent properties.
  - 4) Vegetation. All vegetation underneath solar energy infrastructure shall be properly maintained so as to not block access to solar collectors.
  - 5) Maximum Number.
    - a. Residential uses. There shall be no more than one (1) ground-mounted solar energy collector system per principal building on a lot.
    - b. Agricultural, Commercial, and Industrial uses. There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
  - 6) Maximum Size.
    - a. Residential uses. There shall be no more than one percent (1%) of the lot area, up to a maximum of one thousand five hundred (1,500) square feet, of collector panels on a ground-mounted solar energy collector system.
    - b. 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.
  - 7) Maximum Height.
    - a. Residential uses. The maximum height shall be six (6) feet, measured from the natural grade below the equipment or collector to the highest point at full tilt.
    - b. Agricultural, Commercial, and Industrial uses. The maximum height shall be sixteen (16) feet, measured from the natural grade below the equipment or collector to the highest point at full tilt.
  - 8) Minimum Lot Area. One (1) acre shall be the minimum lot area to establish a ground-mounted solar energy collector system.
  - 9) Screening. Screening shall be required by the Zoning Administrator 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.

- 10) Limits. 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, the charging of solar batteries used on the property and the sale of limited excess power through a net billing or net-metering arrangement shall be permitted. Larger systems may be approved by the Planning Commission if a greater electricity need is demonstrated to power on-site buildings and uses.

**Section 3. Amendment of Section 5.02.** Article V, Section 5.02 of the Ontwa Township Zoning Ordinance is amended to include a new subsection s, which reads as follows:

- s) Utility scale solar energy systems when authorized as a special land use by the Planning Commission, subject to the following requirements:
  - 1) 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 Article XVI. In addition to the information required for final site plan review in Section 16.06, all applications must also include all of the following:
    - a. Equipment and unit renderings.
    - b. Elevation drawings.
    - c. Setbacks from all property lines and adjacent structures.
    - d. Notarized written permission from the property owner authorizing the Utility Scale Solar Energy System.
    - e. Access driveways within and to the system, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway.
    - f. Planned security measures to prevent unauthorized trespass and access.
    - g. A written description of the maintenance program to be used for the utility scale solar energy system and other components, including decommissioning and removal.
    - h. All additional plans and requirements set forth in this Section and any other information required by the Township.
  - 2) Special Land Use Approval; Permits. Utility scale solar energy systems require special land use approval. In addition, no utility scale solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining all applicable approvals and permits. The construction, installation, operation, maintenance, or modification of all utility scale solar energy 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 National Electric Safety Code. Components of a solar energy system shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("EIL"), or other similar certification organization.

- 3) Lot Area. Utility scale solar energy systems shall be located on a lot at least twenty (20) acres in size.
- 4) Setbacks. All Solar Panels, buildings, and structures are required to be located at least 125 feet from any occupied dwelling and its associated accessory structures, and at least 50 feet from any other non-participating property line or right-of-way line of any highway, road, or street. All Solar Panels, buildings and structures shall not be located within any established County drain, or in any right-of-way or easement unless special provisions are formally agreed to with the Drain Commissioner or other affected property owners so as not to impede/obstruct access along the County drain or right-of-way or easement. When the utility scale solar energy system is proposed on multiple contiguous parcels, the setbacks shall be only required maintained along a property line where a participating parcel within the solar energy system is located contiguous to a non-participating parcel. The Planning Commission may require greater setbacks if it is determined that greater separation would better protect adjacent residents and property owners.
- 5) Height. Utility scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the natural grade below the collector or equipment to the highest point at full tilt.
- 6) Noise. Noise emanating from the solar energy collector system shall not exceed 50 decibels (dBA) as measured from any property line.
- 7) Screening. The Planning Commission may require that a utility scale solar energy system be screened from adjoining 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.
- 8) 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.
- 9) Location. Solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties and roads while remaining functional.
- 10) Obstruction. Solar energy systems shall not obstruct or impede solar access to adjacent and neighboring properties.
- 11) Power lines. On site power lines between all structures and ancillary equipment and inverters shall be installed and maintained underground.

- 12) 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 six (6) foot tall high fence.
- 13) 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.
- 14) Signs. Signs are required as part of the utility scale solar energy system to provide the public with general information related to knowledge and safety of the facility. The design, size, height, and location of said signs shall be determined by the Planning Commission. Such sign shall only contain emergency contact numbers and information related to the utility scale solar energy system including the information required by section 18 below. Other commercial speech is not permitted.
- 15) Roads. Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a LSES shall be repaired at the Applicant's expense. In addition, the Applicant shall submit to the appropriate County agency 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. The Applicant shall abide by all County requirements regarding the use and/or repair of County Roads.
- 16) Inspection. The Township shall have the right at any reasonable time to provide a twenty-four (24) hour notice prior to the desired inspection to the Applicant to inspect the premises on which any utility scale solar energy system is located. The Township may hire one or more consultants, with approval from the Applicant (which shall not be unreasonably withheld), to assist with inspections at the Applicant's or project owner's expense. Inspections must be coordinated with, and escorted by, the Applicant's operations staff at the utility scale solar energy system to ensure compliance with the Occupational Safety and Health Administration (OSHA), National Electrical Safety Code (NESC), and all other applicable safety guidelines.
- 17) Operation and Maintenance Plan. The applicant shall submit a plan to the Township for the operation and maintenance of the utility scale solar energy system, which shall include measures for maintaining safe access to the installation and storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
- 18) Emergency Services. Upon request by Ontwa Township, the owner/operator of the utility scale solar energy system shall cooperate with local emergency services in developing an emergency response plan which shall include first responder training and an opportunity for an annual walk-through. All means of shutting down the solar energy system shall be clearly marked on the plan. The owner/operator shall identify a current 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 then-current name, phone number, and email address of the operator.

19) Maintenance. The utility scale solar energy system owner/operator shall maintain the facility in good and safe condition at all times including the screening vegetation, walls, fences, and ground cover. Maintenance shall also include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Any storage of scrap material and/or junk shall not occur on the site except during the construction or decommissioning process. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel year-round. The owner/operator shall be responsible for the cost of fully maintaining the solar photovoltaic installation and any access road(s).

20) Decommissioning.

- a. A decommissioning plan shall be required to ensure that the utility scale solar energy system is properly removed after their useful life. Said plan must be filed with the Township Clerk prior to commencement of construction of the LSES. The plan shall include provisions for removal of all structures and foundations, restoration of soil to a depth of 36 inches and vegetation, the timeframe for completion of decommissioning activities, estimated costs, and a plan ensuring financial resources will be available to fully decommission the site.
- b. Any utility-scale solar energy system which has reached the end of its useful life or has not operated continuously for one (1) year or longer shall be fully removed and the parcel owners shall be required to restore the site to its prior state. The owner/operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.
- c. The owner/operator shall notify the Township directly or by certified mail of the proposed date of discontinued operations and plans for removal.
- d. 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 all of the solar energy system and facilities and charge the cost back to the owner(s) of the lot.
- e. Removal of the solar energy system and facilities shall consist of all 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 to a depth of at least 36 inches.
  - 2) Disposal off-site of all hazardous waste and proper remediation of the site in accordance with local, state, and federal regulations.



- 3) Disposal off-site of all solid and non-hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - 4) Restoration and stabilization or re-vegetation of the site as necessary to minimize erosion.
- 21) Financial Guarantee. The applicant and/or landowner (as determined by the Township) for a utility scale solar energy system shall provide to the Township a form of monetary surety or security, either through an escrow account, letter of credit, bond, or other instrument, acceptable to the Township Attorney. The purpose of the surety or security is to cover the cost of removal of the utility scale solar energy system in the event the owner/operator does not fully remove the solar energy system and facilities or the Township must remove the same. The amount of the financial surety or security shall not exceed more than 125 percent of all costs of removal and compliance with the additional requirements set forth herein. The estimated costs of removal shall be submitted by the applicant to the Township and be prepared by a qualified engineer. The surety or security shall be subject to review and approval by the Planning Commission and the Township Attorney and shall be a condition of special land use approval. The amount of the surety or security shall increase by the Federal CPI every five years and shall remain in place for the length of the lease/contracts and until decommissioning is complete to the satisfaction of the Township. If the Township is required to enforce the guarantee or otherwise take legal action to enforce compliance with this paragraph, the Township shall be entitled to recovery of any and all costs, including attorney fees.

#### **Section 4. 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 5. Effective Date.**

This Ordinance/ordinance amendment shall become effective upon the expiration of seven (7) days after this Ordinance/ordinance amendment adoption appears in the newspaper (or a summary thereof appears in the newspaper) as provided by law.

The vote to approve and adopt this Ordinance/ordinance amendment was as follows:

Upon roll call vote, the following voted:

Ayes: Supervisor Marchetti, Clerk VanBelle, Treasurer Leist, Trustees Bolock, Kozinski, Stutsman and Christensen.

Nays: 0

Absent: 0

The motion was carried and declared adopted on this 13<sup>th</sup> day of February, 2023.



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Tina VanBelle,

Ontwa Township Clerk

# Publisher's Certificate of Publication

## STATE OF MICHIGAN COUNTY OF BERRIEN COUNTY OF CASS

Rich Cains, being duly sworn, says:  
That he is Publisher of the Niles Daily Star, a weekly newspaper of general circulation, printed and published in Niles, Berrien County, Michigan; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

02/18/23

That said newspaper was regularly issued and circulated on those dates.

The sum charged by the Newspaper for said publication does not exceed the lowest rate paid by commercial customers for an advertisement of similar size and frequency in the same newspaper in which the public notice appeared.

There are no agreements between the Niles Daily Star and the officer or attorney charged with the duty of placing the attached legal advertising notices whereby any advantage, gain or profit accrued to said officer or attorney.

SIGNED:



Rich Cains, Publisher

Subscribed and sworn to before me this  
18th Day of February, 2023



Donna Knight  
Notary Public, State of Michigan,  
County of Berrien  
My commission expires 6/20/2028

Account # 141667  
Ad # 1595045

ONTWA TOWNSHIP  
PO BOX 209  
EDWARDSBURG MI 49112

### PUBLIC NOTICE

Ontwa Township, Cass  
County Michigan  
Zoning Ordinance  
Amendment  
Ordinance No.2023-02-13.4  
Summary of Solar Energy  
Ordinance

AN ORDINANCE TO AMEND  
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ADD A NEW SUBSECTION (S)  
RELATED TO UTILITY SCALE  
SOLAR ENERGY SYSTEMS

The following conditions are re-  
quired under the Solar Energy  
Ordinance:

- Section 1. Section 2.46A Solar Energy Collector or System
- Section 2. 3.38 Small Scale Solar Energy Systems
- Section 3. Section 5.02 New Subsection s

The local unit may by resolution further restrict or repeal parts of the Ordinance in effect that are in conflict only to the extent necessary to give this ordinance full force and effect.

The Ordinance is available in its entirety at the Ontwa Township Hall 22625 US 12 Edwardsburg. This Ordinance shall take effect 30 days after publication.

Niles Daily Star: Feb. 18, 2023  
ORD 2023-02-13.4