

ORDINANCE NO. 72
TOWNSHIP OF WHITEFORD, COUNTY OF MONROE, STATE OF MICHIGAN

UTILITY SCALE SOLAR ENERGY FACILITIES ORDINANCE

An Ordinance regulating the siting, installation, operation and maintenance of utility scale solar energy facilities; to preserve the physical integrity of land in close proximity to dwellings; to provide for penalties for the violation of said ordinance; to repeal all ordinances in conflict therewith.

SECTION 1. TITLE

This ordinance shall be cited as the Whiteford Township Utility Scale Solar Energy Facilities Ordinance.

SECTION 2. APPLICABILITY

A. This ordinance only applies to solar energy facilities that are intended to provide utility scale energy to the grid. For purposes of clarity, a solar energy facility that is designed to primarily offset the energy consumption of a residence or commercial facility through net metering is not regulated by this ordinance.

B. Modifications to an existing utility scale solar energy facility that increase the area of the facility by more than 20% of the original footprint or changes the solar panel type shall be subject to this ordinance.

C. Utility scale solar energy facilities shall only be allowed in AG, M-1 and M-2 zoning districts.

SECTION 3. DEFINITIONS

A. **Abandonment:** A utility scale solar energy facility shall be deemed to be abandoned when: i) it ceases to produce energy on a continuous basis for 12 months; or ii) the township representative responsible for enforcing the Whiteford Township Zoning Ordinance reasonably believes that the facility is not producing energy, a certified letter has been sent to the last known address of the landowner and owner of the facility and either party has failed to provide substantial evidence that the facility is still generating energy within sixty (60) days of the certified letter's receipt.

B. **Building:** Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

C. **Decommissioning plan:** A document that details the planned shut down or removal of a utility scale solar energy facility from operation or usage.

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

E. **Fence:** A continuous barrier extending from the surface of the ground to a uniform height of not less than eight (8) feet from the ground at any given point, constructed of wood, steel, or

other metal, or any substance of a similar nature and strength that will hide the utility scale solar energy facility.

F. Improved Area: An area containing solar panels, electrical inverters, storage buildings and access roads.

G. Public Road: Any road or highway which is now or hereafter designated and maintained by the Monroe County Road Commission, Department of Transportation as part of the State Highway System, whether primary or secondary, hard surfaced or other dependable road. Setbacks for improved areas shall be measured from the road right of way.

H. Unless otherwise defined in this Ordinance, all terms shall have the meanings set forth in the Whiteford Township Zoning Ordinance.

SECTION 4. LOCATION

A. All utility scale solar energy facilities must comply with the terms of this Ordinance, submit a site plan and comply with the other general requirements established in the Whiteford Township Zoning Ordinance. In case of a conflict between this Ordinance and the Whiteford Township Zoning Ordinance, the terms of this Ordinance shall control.

B. All utility scale solar energy facilities shall be considered a conditional use requiring special approval in M-1, M-2 and AG zoning districts in Whiteford Township. Approval for the special use must be obtained from the Planning Commission.

C. All improved areas shall be at least 60 feet from a public road right of way and 50 feet from a fence or property line in any zoning district.

D. If the improved area abuts a property zoned R-1, R-2, R-3, R-4, R-5, PUD or the abutting property has dwelling on it, then the improved area must be set back 100 feet from the abutting property line and a landscape buffer is required. The landscape buffer shall contain evergreen trees or bushes planted no more than 8 feet apart and at least 4' tall at time of planting. The landscape buffer shall obtain a height of 10 feet within 3 growing seasons. The trees or bushes may be trimmed but no lower than a height of 10 feet. The evergreen trees or bushes shall be set back at least 15 feet from the property line.

E. If a non-opaque fence is used (i.e. a wire fence), vegetation must be planted along the perimeter of the utility scale solar energy facility that abuts a public road.

F. Unless required by Section 4.E. above, a landscape buffer will not be required if the utility scale solar energy facility abuts property zoned M-1, M-2, EX, B-1, B-2 or AG.

SECTION 5. SECURITY

A. Utility scale solar energy facilities shall be completely fenced in. The perimeter fence shall be designed to restrict unauthorized access.

B. Vegetation on a utility scale solar energy facility must be properly pruned and maintained so that the vegetation will reach maturity as soon as practical and will have maximum density of foliage. Dead or diseased vegetation shall be removed and must be replanted at the next

appropriate planting season. Plants or grasses not part of landscaping shall be maintained by the facility owner or operator and shall not exceed twelve inches in height.

SECTION 6. SUPPLEMENTAL REGULATIONS

- A. An appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
- B. Onsite power lines between solar panels and inverters shall be placed underground.
- C. The design of utility scale solar energy facility buffers shall use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- D. If the utility scale solar energy facility uses batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- E. If a driveway permit is required by the Monroe County Road Commission, a copy of the permit will be provided to the Planning Commission.
- F. The design and construction of utility scale solar energy facilities shall not produce electrical emissions that would interfere with aircraft communication systems or glare that interferes with aviation.
- G. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
- H. An affidavit or evidence of an agreement between the property owner and the facility owner confirming that the facility owner has the permission of the property owner to apply for the necessary permits for construction and operation of the utility scale solar energy facility shall be provided to the Township.
- I. The applicant shall provide any other relevant studies, reports, certificates and approvals that may be reasonably required by the Planning Commission.
- J. An informational sign shall be posted and maintained at the entrance(s) listing the emergency name and phone number of the operator or facility owner.
- K. Solar panels shall be placed and arranged so that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. Solar panels shall be finished with non-reflective coatings and any exposed frames or components shall have a non-reflective surface.
- L. The applicant must obtain all applicable permits and inspections for the utility scale solar energy facility. The building inspector shall conduct a final inspection of the facility to ensure that the electrical and other mechanical systems comply with state code.

SECTION 7. SITE PLAN REQUIRED

A. Owners or operators of utility scale solar energy facilities established after the effective date of this Ordinance shall present six (6) copies of a site plan that conform to the standards of this Ordinance and the Whiteford Township Zoning Ordinance to the Whiteford Township engineer. The applicant must satisfy the Whiteford Township engineering standards.

B. The Planning Commission shall review the site plan after approval from the Township engineer to insure conformity with the requirements of this Ordinance.

C. A description of the proposed technology including the type of solar panel, whether the panels are fixed mounted or solar tracking, number of panels, and angles of orientation shall be part of the site plan.

D. "As built" prints shall be presented prior to final inspection by the building inspector.

SECTION 8. ABANDONMENT AND DECOMMISSIONING PLAN

A. When a utility scale solar energy facility has been determined to be abandoned by Whiteford Township, then the property owner or owner of the facility shall remove all equipment and improvements and shall restore the property to its prior condition.

B. The owner of the utility scale solar facility or property owner shall have six (6) months after abandonment to restore the property to its prior condition.

C. If the owner of the utility scale solar energy facility or property owner fail to properly restore the property after the facility has been determined to be abandoned, the township may remove the facility and related equipment and initiate judicial proceedings and take all other legal actions necessary to recover its costs incurred for removal and site restoration.

D. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the approval of the conditional use:

- i. The anticipated life of the project;
- ii. The estimated decommissioning costs;
- iii. The conditions upon which decommissioning shall be initiated (i.e. end of the land lease, no power production for 12 months etc...);
- iv. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations;
- v. Restoration of the property to the condition prior to development of the utility scale solar energy facility;
- vi. The timeframe for completion of decommissioning activities, which shall not exceed six (6) months;
- vii. Description of any agreement (e.g. lease) with a landowner regarding decommissioning; and
- viii. The party currently responsible for decommissioning.

E. A copy of the decommissioning plan shall be submitted to the Planning Commission at the time of applying for the conditional use permit.

F. Decommissioning shall be six (6) months after determining that the utility scale solar energy facility is deemed abandoned.

G. A surety bond, letter of credit, corporate guaranty, or other similar financial instrument acceptable to the Planning Commission that is equal to the cost of decommissioning is required.

SECTION 9. ENFORCEMENT AND PENALTIES

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$1000.00 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorneys’ fees, damages, expenses, and other remedies provided by law. For purposes of this section “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous similar violation.

SECTION 10. SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any Court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision, and shall not affect or invalidate the remainder of such Ordinance which shall continue in full force and effect.

Section 11. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its publication, or publication of a summary thereof, in a newspaper in general circulation within Whiteford Township.

WHITEFORD TOWNSHIP BOARD
OF TRUSTEES, MONROE COUNTY,
MICHIGAN

AUTHENTICATED:

By: _____
Angela Christensen,
Whiteford Township Clerk

By: _____
Walter Ruhl,
Whiteford Township Supervisor

I, Angela Christensen, do hereby certify that I am the duly elected and acting Clerk of the township of Whiteford, and I do hereby certify that this Ordinance was adopted by the Whiteford Township Board of Trustees, Monroe County, Michigan, at a regular meeting of the Whiteford Township Board of Trustees held at the Whiteford Township Hall, 8000 Yankee Road, Suite 100, Ottawa Lake, Michigan 49267, on the 17th day of April, 2018 and that:

this Ordinance was offered for adoption by Tim Hill and was seconded by Donald Sahloff, the vote being as follows:

YEAS: Donald Sahloff, Tim Hill, Bernice Heidelberg, Angela Christensen, Walter Ruhl

NAYS: None

ABSENT / ABSTAIN: None

I, Angela Christensen, Whiteford Township Clerk, do hereby certify that the foregoing is a true copy of an Ordinance adopted at a regular meeting of the Whiteford Township Board of Trustees on the 17th day of April, 2018.

Angela Christensen, Clerk
Whiteford Township, Michigan

ADOPTED: April 17, 2018

PUBLISHED: April 26, 2018

EFFECTIVE: May 26, 2018