

GUSTIN TOWNSHIP ORDINANCE NO. 2023-01

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO IMPLEMENT REGULATIONS REGARDING SOLAR ENERGY

The Township of Gustin ordains:

**SECTION 1. ADD DEFINITIONS TO SECTION 2.1.**

The following definitions are hereby added to Section 2.1 of the Zoning Ordinance and shall read as follows:

**BUILDING INTEGRATED PHOTOVOLTAICS (BIPVs):** A Private or Commercial Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

**SOLAR ENERGY SYSTEM:** Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including but not limited to the collection and transfer of heat created by solar energy to any other medium by any means.

**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 of surplus electrical energy back to the electrical grid.

**COMMERCIAL SOLAR ENERGY SYSTEM:** A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

**ROOF OR BUILDING MOUNTED SOLAR ENERGY SYSTEM:** A Private or Commercial Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

**GROUND MOUNTED SOLAR ENERGY SYSTEM:** A Private or Commercial Solar Energy System that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.

**MAXIMUM TILT:** The maximum angle of a solar panel (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.

**MINIMUM TILT:** The minimal angle of a solar panel (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.

REPOWERING: Reconfiguring, renovating, or replacing a solar energy facility to maintain or increase the power rating of the solar energy facility within the existing project footprint.

**SECTION 2. SOLAR ENERGY SYSTEMS TO SECTION 4.0.**

<b>TABLE OF PERMITTED USES &amp; SPECIAL LAND USES</b>					
R = Permitted by right S = Permitted with a Special Use Permit *Indicates that supplemental development standards apply (Article 7).	A-R	R	F-R	C	I
<b>UTILITIES/ENERGY</b>					
<i>Electrical Transformer Stations &amp; Substations (with service storage yards)</i>				S	
<i>Essential Services</i>	R	R	R	R	R
<i>Gas Regulator Stations</i>	R		R	R	R
<i>Heating &amp; Electric Power Generating Plants</i>					S
<i>Public Utility Facilities (without storage yards)</i>	S			R	R
<i>Public Utility Facilities (with storage yards)</i>	S				R
<i>Solar Energy System, Commercial</i>	S				S
<i>Solar Energy System, Private</i>	R	R	R	R	R
<i>Wind Energy Facilities and Anemometer Towers (Commercial)*</i>	S			S	S
<i>Wind Energy Systems (small on-site)*</i>	R	R	R	R	R

**SECTION 3. ADDITION OF SECTION 7.31 TO ZONING ORDINANCE ENTITLED “SOLAR ENERGY SYSTEMS”.**

Section 7.31 entitled “SOLAR ENERGY SYSTEMS” is hereby added to the Township’s Zoning Ordinance. The section shall read in its entirety as follows:

**Section 7.31. SOLAR ENERGY SYSTEMS.**

A. **GENERAL REQUIREMENTS.** All Solar Energy Systems are subject to the following general requirements:

1. All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
2. Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

B. **PRIVATE SOLAR ENERGY SYSTEMS.**

1. Private Solar Energy System BIVPs. Private Solar Energy System BIVPs shall be permitted in all zoning districts, provided such BIVPs conform to applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code. A zoning permit shall be required for the installation of any BIVPs.

2. **Roof or Building Mounted Private Solar Energy Systems.** Roof or building mounted Private Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:

- a) No part of the Solar Energy System erected on a roof shall extend beyond the peak of the roof. If the Solar Energy System is mounted on a building in an area other than the roof, no part of the Solar Energy System shall extend beyond the wall on which it is mounted.
- b) No part of a Solar Energy System mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley in order to maintain pathways of accessibility.
- c) No part of a Solar Energy System mounted on a roof shall extend more than two (2) feet above the surface of the roof.
- d) A building-mounted or roof-mounted accessory solar energy panel installed on a nonconforming building or nonconforming use shall not be considered an expansion of the nonconformity.
- e) In the event that a roof or building mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.
- f) A zoning permit shall be required for installation of roof or building mounted Private Solar Energy Systems.

3. **Ground Mounted Private Solar Energy Systems.** Ground mounted Private Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:

- a) Prior to the installation of a ground mounted Solar Energy System, the property owner shall submit a site plan to the Zoning Administrator. The site plan shall include setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan must be drawn to scale.
- b) A ground mounted Solar Energy System shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted Solar Energy System exceed fifteen (15) feet above the ground when oriented at maximum tilt.
- c) A ground mounted Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the

Solar Energy System will be located. If no solar access is available in the rear yard, a request can be brought to the Zoning Committee for permission to place elsewhere on the property.

- d) All power transmission or other lines, wires or conduits from a ground mounted Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Solar Energy System, they must be placed in a secured container or enclosure.
- e) There shall be greenbelt screening around any ground mounted Solar Energy Systems and equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence (meeting the requirements of this Ordinance applicable to fences) may be used.
- f) Ground-mounted accessory solar energy panels installed on a nonconforming lot or nonconforming use shall not be considered an expansion of the nonconformity.
- g) In the event that a ground mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner shall notify the Township and shall remove the system within six (6) months from the date of abandonment.
- h) A zoning permit shall be required for installation of a ground mounted Solar Energy System.

### **C. COMMERCIAL SOLAR ENERGY SYSTEMS.**

Commercial Solar Energy Systems shall only be allowed in the Agricultural-Residential District or the Industrial District as a special use approved by the Planning Commission. In addition to any other requirements for special use approval, Commercial Solar Energy Systems shall be ground mounted and are subject to the following requirements:

1. The property owner or applicant for a Commercial Solar Energy System shall provide the Planning Commission with proof of ownership of the subject property, a copy of any lease agreement for a commercial solar energy system, together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
- ~~2. Commercial Solar Energy Systems shall be located on parcels of land no less than twenty (20) acres in size.~~

3. The Commercial Solar Energy System shall be set back two hundred (200) feet from all property lines of non-participating lots meet the minimum front, side and rear yard setbacks of the zoning district. Setbacks should be measured when the panel is at minimum tilt.
4. The height of the Commercial Solar Energy System and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
5. Solar devices shall be screened year-round from view from any existing residential use and the public right-of-way by use of a screening wall, evergreen vegetation, or other screening of similar effectiveness and quality, as determined by the Planning Commission. Screening shall be installed which screen the facility fully from view from the time of planting or installation. Screening shall be maintained throughout the life of the facility including replacing dead vegetation within six (6) months or at the earliest feasible time of the year dependant on the weather.
6. The sound pressure level of a solar energy facility and all ancillary solar equipment shall not exceed ~~fifty-five (55)~~ forty-five (45) dBA (Leq (1 hour)) at the property line of an adjacent non-participating lot. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
7. Prior to installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the Commercial Solar Energy System will connect to the power grid.
8. No Commercial Solar Energy System shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to an interconnection with the electrical grid or a power purchase agreement. Any such agreement shall be furnished to the Planning Commission.
9. A condition of every approval of a Commercial Solar Energy System shall be adequate provision for the removal of the system whenever it ceases to be used for one (1) year or more. In the event that a system has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner and developer/applicant shall notify the Township and shall remove the system within one (1) year from the date of abandonment. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. The site shall then be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation.
10. To ensure proper removal of a Commercial Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Township within

fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.

11. If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Commercial Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.
12. Repowering: In addition to repairing or replacing solar energy components to maintain the system, a solar energy facility may at any time be repowered, without the need to apply for a new Special Use permit, by reconfiguring, renovating, or replacing the solar energy components to increase the power rating within the existing project footprint. A proposal to change the project footprint of an existing solar energy facility shall be considered a new application, subject to the ordinance standards at the time of the request. Expenses for legal services and other studies resulting from an application to modify a solar energy facility will be reimbursed to the Township by the solar energy facility owner in compliance with established escrow policy.

#### **SECTION 4. VALIDITY AND SEVERABILITY.**

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

#### **SECTION 5. REPEALER.**

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

#### **SECTION 6. EFFECTIVE DATE.**

This Ordinance shall be published and take effect seven (7) days after publication as provided by law.

This Ordinance was adopted by the Township of Gustin, County of Alcona, State of Michigan, at a meeting held on the 16th day of January, 2023, and ordered to be published in the manner prescribed by law.

I, Renee LaVergne, Clerk of the Township of Gustin, County of Alcona, State of Michigan, do hereby certify that the foregoing is a true copy of an ordinance adopted by the Township Board of the Township at a meeting held on the 16th day of January, 2023. Township Clerk

Renee LaVergne, Gustin Township Clerk