



Village of Breedsville

82 E Main St. PO Box 152

Breedsville, MI 49027

(269) 427-9029

ORDINANCE 2023-01

SOLAR ENERGY ORDINANCE

THE VILLAGE OF BREEDSVILLE ORDAINS:

SECTION 1: SOLAR ENERGY SYSTEMS

(A) General Requirements.

1. The exterior surfaces of solar energy systems shall be generally neutral in color and substantially non-reflective of light. A unit shall be installed or located such that reflected solar radiation or glare shall not be directed onto the adjacent buildings, properties, or roadways.
2. Solar energy systems must be installed in compliance with the National Electric Code, the manufacturer's specifications, and all other applicable codes. A copy of the manufacturer's installation and maintenance instructions must be submitted for review. Written evidence that the utility company provider has been notified shall be submitted.
3. Components of solar energy systems shall be approved by Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (ETL), or other similar certification organization if acceptable to the Village. Solar developer shall disclose all chemical and electronic components of solar panels and equipment to the Village including the use of batteries for storage. Any changes or modifications to components would be subject to special use and site plan amendment approval.
4. A solar energy system shall be permanently and safely attached to a building, structure, or ground. Proof of the safety and reliability of the means of such attachment shall be submitted to the Building Inspector prior to installation
5. Solar energy systems, and the installation and use thereof, shall comply with the applicable construction codes, and other counties, states, and federal requirements.
6. No solar panels shall be stored on the property in the Village unless the panels are to be used in the construction of an approved solar energy system.
7. There shall be no signs on the unit, other than a sign or logo identifying the manufacturer with an area no greater than three (3) square feet, and any necessary safety information signs.

(B) Small Accessory Use Solar Energy Systems.

1. Building Mounted Systems.

Building-mounted solar energy systems that generate up to but do not exceed the manufacturer's rating of one hundred (100) kilowatts (kW) to primarily meet the needs of on-site users shall be a permitted accessory use in all zoning districts, subject to the following requirements:

- a. Building-mounted solar energy systems shall be permitted as accessory use in all districts as administratively approved through the issuance of a Building Permit if the application meets the standards provided in this Section.
- b. A building-mounted solar energy system may only be attached to a principal building, or an accessory building serving the principal use, such as a barn, garage, or shed.
- c. A roof-mounted unit on a sloped roof shall not project above the peak of the roof to which it is attached. When such units are mounted to a flat roof they shall not project higher than three (3) feet above the building height and shall be screened with a wall at least one (1) foot taller than the unit. In no instance shall a roof-mounted unit exceed the maximum allowable height set by the ordinance.
- d. Roof-mounted panels that are integrated as the surface layer of the roof structure may be located on any part of the roof. Separate flush-mounted units may only be located on a rear-facing or side-facing roof.
- e. Such a unit shall be only of such weight as can safely be supported by the structure. Proof thereof, in the form of certification by a Professional Engineer (PE) or other qualified people, shall be submitted to the Building Inspector prior to installation.
- f. A wall-mounted solar energy system shall not extend further than ten (10) feet from the building wall, may not extend into a required yard, and may not exceed the height of the building wall to which it is attached. Such units may only be attached to one (1) side or rear building façade.

2. Ground Mounted Systems.

Ground-mounted solar energy systems that generate up to but do not exceed the manufacturer's rating of one hundred (100) kilowatts (kW) to primarily meet the needs of on-site users shall be a permitted accessory use in all zoning districts, subject to the following requirements:

- a. Ground-mounted solar energy systems shall be permitted as an accessory use in all districts as administratively approved through the issuance of a Building Permit if the application meets setback and other standards, as provided in this Section.
- b. Height. A ground-mounted solar energy system shall not exceed ten (10) feet in height, measured from the ground at the base of the unit.

- c. Setbacks. Ground-mounted solar energy systems shall be located in the rear yard and the side yard but must meet the required minimum side and rear yard setbacks of the district in which they are located.
- d. All power transmission lines shall be underground.

(C) Commercial Use of Solar Energy Systems.

1. Purpose and Intent. The purpose and intent of this section and subsequent sections are to establish requirements for the construction and operation of commercial-use solar energy system facilities and to provide standards for the placement, design, construction, monitoring, maintenance, modification, and removal of solar facilities; address public safety; minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.
2. Commercial use solar energy systems are permitted only by special use permits.
3. In determining whether the commercial use solar facility is appropriate on the subject property, the Village Board shall consider the following:
 - a. Proximity to existing electric transmission lines and feasibility of connecting to the existing transmission network.
 - b. Existing physical features of the site that could be impacted by the solar facility, including wildlife impacts and other existing conditions.
 - c. Potential impacts on neighboring properties in terms of glare, stormwater runoff, property values, environment, aesthetics, and screening shall be considered by the Board in determining whether the use is appropriate on the subject property.
 - d. The Village shall have the sole discretion to determine whether the installation of a commercial use solar facility is appropriate

(D) Commercial use solar system facilities shall be subject to the following standards:

1. Lot Size: A commercial-use solar energy system shall be located on one or more parcels with an aggregate area of ten (10) acres or greater.
2. Height. Commercial use solar energy system panels or collection devices shall not exceed fifteen (15) feet in height, excluding substation and electrical transmission equipment (as measured from the natural grade at the base of improvements). The maximum height for all structures associated with the commercial use solar energy system shall comply with the maximum height requirements for principal structures of the district in which they are located.
3. Setbacks. Setback distances shall be measured from the property line or road right-of-way as measured from the survey pins marking the road right-of-way, to the security fence enclosing the solar facility. Commercial use solar energy systems shall comply with the setback requirements of the district in which they are located as described in village ordinances, with the following exceptions:

- a. A minimum setback distance of one thousand (1000) feet from any lake, Stream, other waterway or wetland.
- b. 150 feet from any roadway or other property line.
- c. Similarly, as part of the Special Approval process, upon request by the Applicant, the Board may consider and grant reasonable setback reductions following the submission of satisfactory evidence by the Applicant and a finding by the Board that there are no effects to be mitigated by the setback area being reduced. The Board shall have the sole discretion to determine if any setback reduction is appropriate.

4, Land Clearing. Existing woodlots on proposed solar facility sites shall remain in their natural state. Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the facility.

5. Screening. The perimeter of a commercial-use solar facility shall also be completely screened by a minimum thirty (30)-foot wide vegetative buffer placed outside of the perimeter security fence required under Subsection 7 whenever existing natural vegetation does not otherwise obscure the solar energy system from adjacent properties, subject to the following requirements:

- a. The vegetative buffer shall be composed of naturalized groupings of plant materials, containing a mixture of Michigan native deciduous and evergreen trees and shrubs. A combination of berms and larger trees may be used to achieve the required screening. The landscape buffer shall provide a visual screen that is at least eight (8) feet high. The applicant shall provide a landscape detail and cross-section demonstrating the screening/buffering achieved.
- b. If the applicant requests a Final Certificate of Occupancy from the Village and the applicant is unable to plant during the installation period, the Applicant will provide the Village with an irrevocable letter of credit, surety or corporate guarantee for an amount equal to two and one-half (2.5) times the cost of any planting deficiencies that the Village shall hold until the next planting season. After all plantings have occurred, the Village shall return the financial guarantee.
- c. All unhealthy and dead material shall be replaced by the applicant within one (1) year, or the next appropriate planting period, whichever occurs first.
- d. Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this Ordinance and any Special Use A permit may be subject to revocation.

6. Ground Cover.

- a. Ground around and under solar panels and in project landscape buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover.
- b. To the maximum extent feasible for site conditions, perennial vegetation ground cover shall be based on a diverse seed mix of native species.
- c. The owner/operator shall demonstrate site maintenance that is intended to remove invasive or noxious species and woody plants without harming perennial vegetation.
- d. Commercial use solar facilities that propose to install, establish, and maintain pollinator-friendly vegetative cover are to demonstrate the quality of their habitat by using guides or other third-party solar-pollinator scorecards designed for Van Burren County's ecosystems, soils, and habitat.

7. Security Fence.

Commercial-use solar facilities shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be seven (7) feet in height as measured from the natural grade of the fencing perimeter. The fence shall be located around the perimeter of the solar facility and buffered as required under Subsection 5. The material of such fence shall be established through the Site Plan approval process. Fire lock boxes, which provide a method for emergency gate access, and keys shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted.

8. Lot Coverage:

Commercial-use solar facilities are exempt from maximum building lot coverage Limitations

9. Drainage:

All existing on-site drain tiles and ditches shall be identified and maintained. The application shall include a drainage plan prepared by a Professional Engineer (PE) showing how stormwater runoff will be managed and demonstrating that runoff from the site will not exceed the agricultural runoff rate or otherwise cause undue flooding or drainage issues. If detergents will be used to clean solar panels, details on the type of detergent, frequency, and quantity of use, quantity, and source of water, and stormwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.

10. Signage.

No advertising or non-project-related signs or graphics shall be on any part of the solar arrays or other components of the commercial-use solar facility. This exclusion does not apply to entrance gate signage or notifications containing points of contact or all other information that may be required by authorities having jurisdiction for electrical operations and the safety and welfare of the public.

11. Glare.

Solar panels shall be placed such that solar glare shall not be directed onto nearby properties or roadways. Traffic safety shall be protected and adjacent properties shall be protected from unreasonable glare. The applicant shall submit documentation to verify compliance with this section. When deemed appropriate, the Board may require a report from a professional engineer or other specialists the Board finds it to be qualified to address this issue.

12. 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.

13. Distribution.

All collection lines and interconnections from the solar energy collection devices to any electrical substations shall be located and maintained underground inside the solar facility, except in areas where technical or physical constraints make it necessary to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.

14. Noise.

No component of any solar facility shall emit noise exceeding fifty-five (55) dBA as measured at the exterior property boundary or the existing right-of-way line.

15. Special Use Conditions and Modifications.

The Board may recommend, and the Village Board may, in addition to the above standards, require landscaping, walls, and other improvements or modifications that are reasonable in relation to and consistent with the nature of the application or adjacent land uses

(E). Applications and Procedures.

In addition to the requirements of other Village ordinances, all applications for the commercial use of solar facilities shall include the following information.

1. Application Deposit and responsibility for Village Costs.

The applicant shall be responsible for all professional costs incurred by the Village in the application, permitting, construction, and inspection process. The applicant shall submit with its original application the sum of \$10,000 which the Village shall apply to professional costs incurred. The applicant shall provide additional amounts to the Village for this purpose on request by the Village.

2. Pre-application meeting. Submittal of a concept plan and a pre-application conference with Village staff and officials is required to discuss the location, scale, and nature of the proposed use and what will be expected during that process. The concept plan shall include:

- a. The scale, date, and north point.
- b. The location, shape, and dimensions of the parcel (s).
- c. A description of the project.
- d. The location of the proposed facility site with property lines and setback lines.
- e. Existing and proposed buildings and structures including preliminary locations of the proposed solar panels and related equipment, fencing, driveways, and points of ingress/egress.
- f. Proposed connection to an existing electric line.

3. The Special Approval Use submittal shall include:

- a. All property lot lines and dimensions, including a legal description of each parcel comprising the solar facility.
- b. Names of owners of each parcel that is proposed to be within the solar facility including proof that the applicant has the authorization to act upon the owner's behalf.
- c. A list of all adjacent property owners, their tax map numbers, and addresses.
- d. Identification of the utility company that will interconnect to the facility.
- e. A narrative identifying the applicant, owner, or operator, and describing the proposed solar facility project, including an overview of the project and its location, the capacity of the solar facility, the approximate number of panels, representative types of and expected footprint of solar equipment to be constructed including the location of interconnections to any existing or proposed substations or connection stations.
- f. An area map showing the proposed location of the solar facility, fenced area and driveways with the closest distance to all adjacent property lines and dwellings along with main points of ingress/egress, as well as the current use, zoning districts, and location of structures of all surrounding properties.

4. The Site Plan submittal shall include:

- a.** Location and height of all proposed solar array(s), buildings, structures, electrical tie lines, transmission lines, security fencing, and all above-ground structures and utilities associated with the solar energy system.
- b.** Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed solar array(s), buildings, structures, electrical tie lines, transmission lines, security fencing, internal drives, and all above-ground structures and utilities on the property(ies).
- c.** Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the solar facility and within 100 feet of all exterior property lines of the solar facility.
- d.** A description of the anticipated upgrades or improvements to the current electric grid that are required to support the proposed solar energy facility and the status of the applicant(s) application for interconnection to the grid.
- e.** Proposed setbacks from the solar array(s) to all existing and proposed structures and property lines.
- f.** Land elevations for the solar array(s) location and the relationship to the land elevations of all existing and proposed structures within the solar facility at a minimum of two (2) foot contours.
- g.** Access driveways within and to the solar facility, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All-access drives shall be subject to Van Buren County Road Commission or MDOT approval as applicable and shall be planned so as to minimize the use of lands for that purpose.
- h.** Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance or repair of the solar energy system.
- i.** A Maintenance Plan providing a written description of the maintenance program to be used for the solar array and other components of the solar facility, as well as a Decommissioning Plan and performance security as noted in Subsection G. The description, shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the solar energy system is decommissioned.

- j. Planned lightning protection measures.
- k. A construction management plan which includes, but is not limited to, the location of staging areas for construction materials and equipment, hours of operation, estimated duration of construction, number, and type of vehicles entering and leaving the site, including a traffic impact analysis of the same, temporary lighting, anticipated noise, and dust generation, and corresponding mitigation measures
- l. Additional detail(s) and information as required by the Board and the Village Board to determine any potential impacts of the proposed facility. This may include but not be limited to the completed copy of the Michigan Pollinator Habitat Planning Scorecard for Solar Sites if applicable, a visual impact assessment (including visual simulations of the project to demonstrate appropriate mitigation measures), environmental impact analysis (baseline environmental assessment, historical sites, wildlife, threatened and endangered species, fragile ecosystems, etc.), a stormwater impact study (stormwater infiltration, 100-year rain event calculations, percolation tests, or other sites specific soil information, etc.), a glare impact study, or other studies.
- m. Any conditions and modifications approved by the Village Board as part of the Special Land Use review process shall be noted on the plans.

5. Monitoring and Inspection.

The Village shall have the right at any reasonable time, to provide a 24-hour notice to the Applicant to inspect the premises on which any commercial use solar facility is located. The Village 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 commercial use solar energy facility to ensure compliance with the Occupational Safety and Health Administration (OSHA), NESC, and all other applicable safety guidelines.

6. Roads.

Any material damages to a public road located within the Village resulting from the construction, maintenance, or operation of a commercial-use solar facility shall be repaired at the Applicant's expense. In addition, the Applicant shall submit to the appropriate county or state 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.

7. Maintenance and Repair:

Commercial use solar energy facilities must be kept and maintained in good repair and condition at all times. If the Village Building Official determines that a commercial use solar energy system fails to meet the requirements of this Ordinance and the Special Use Permit, or that it poses a safety hazard, the Zoning Administrator/Building Official, or his or her designee, shall provide notice to the Applicant of the safety hazard. If, after a reasonable cure period (not to exceed seven (7) days), the safety hazards are not corrected, the Applicant is entitled to a hearing before the Village Board. If the Village Board determines that the safety hazard requires that the commercial use solar facility must be shut down, Applicant shall immediately shut down the solar facility and not operate, start or restart the solar energy system until the issues have been resolved. The applicant shall notify the Village of any solar panel damages or breakages and shall keep a maintenance log on the solar array(s), which shall be available for the Village's review within 48 hours of such request. The applicant shall keep all sites within the solar facility neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions.

8. Decommissioning and Reclamation.

- a.** If the commercial use solar facility ceases to operate or is abandoned for a period of six (6) months or is deemed by the Building Official to be unsafe or not consistent with code, the Applicant shall repair and restore the system to good working order within six months or, if no longer operating or no longer in compliance with federal, state or local codes, it shall remove the system in its entirety. This shall include removing posts, equipment, panels, foundations, and other items so that the ground is restored to its preconstruction state. The Applicant shall prepare a Decommissioning Plan and submit it to the Board for review and approval prior to issuance of the Special Use Permit. Under this plan, all structures, concrete, piping, facilities, and other project-related materials above grade and any structures up to three (3) feet below grade shall be removed and taken offsite for disposal. The ground must be regraded and reseeded to as natural condition as possible
- b.** Performance Security. Prior to the start of construction, the Applicant shall post a performance security (cash, irrevocable letter of credit or surety bond deemed suitable by the Village attorney) in an amount deemed sufficient based on the cost of removal of the equipment, structures, and foundations related to the commercial use solar energy system in the event of abandonment or failure to comply with federal, state or local laws (after being given reasonable time to remedy the problem). As a part of the Decommissioning Plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for the full removal of the equipment, foundations, and structure associated with the facility as described above. The amounts will assist the Village in setting the performance security valid throughout the lifetime of the facility. The applicant shall provide documentation to support the estimated lifespan of the equipment. Bonds shall be extended on a bi-annual basis from the date of Special Use approval. Such

financial security shall be irrevocable and non-cancellable. The Village may increase the insurance and/or bond amounts required of the applicant in the event that it is determined by the Village Board or an insurance bond professional that the existing surety and/or bond amounts are insufficient to effect the purposes of such guarantees. In the case of a sale of the commercial solar facility, the owner/operator is required to notify the Village, replace the financial security that have been provided, and update the contact information for the new operator/owner.

- c. Continuing Obligations. Failure to keep any required financial security in full force and effect at all times while a commercial use solar facility exists or is in place shall constitute a material and significant violation of the Special Use Permit and this Ordinance, and will subject the facility Applicant, owner and operator to all remedies available to the Village, including any enforcement action, civil action request for injunctive relief, and revocation of the Special Use Permit.

9. Application Escrow Account.

An escrow account shall be deposited with the Village by the Applicant when the Applicant applies for a Special Use Permit for a commercial use solar energy system. The monetary amount deposited by the Applicant in escrow with the Village shall be the amount estimated by the Village, to cover all reasonable costs and expenses associated with the Special Use Permit and Site Plan review and approval processes, which costs shall include, but are not limited to, reasonable fees of the Village Attorney, Village Planner and Village Engineer, as well as costs for any reports or studies that are reasonably related to the review process of the application. The Applicant shall have thirty (30) days to submit the amount estimated by the Village. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the Special Use Permit and Site Plan review processes, the Village may require that the Applicant place additional funds into escrow with the Village if the existing escrow amount deposited by the Applicant is deemed insufficient by the Village. If the escrow account needs replenishing and the Applicant refuses to do so within thirty (30) days, the Special Use Permit or Site Plan review 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 Village must also be complied with by the Applicant. The Village shall provide a summary of all account activity to the Applicant within a timely manner upon request. Any funds remaining within the escrow after approval of the Special Use Permit and Site Plan shall be returned in a timely manner to the Applicant.

VALIDITY

This Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase, or clause, is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected hereby. The Village of Breedsville Council hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence, and clause thereof, irrespective of the fact that any one or more part, sections, subsections, phrases, sentences, or clauses be declared invalid.

CERTIFICATION

I further certify that trustee W. Yeager moved for adoption of said Ordinance 2023-01, that trustee T. Weniger, seconded said motion.

I further certify that the following Trustees W. Yeager, T. Weniger, P. Cooley, L. Weniger, President S. Rogusta voted for adoption of said Ordinance: 2023-01, and that the no members voted against such Ordinance:

I further certify that said Ordinance No 2023-01 has been recorded in the Ordinance Book of the Village of Breedsville and that such recording has been authenticated by the signatures of the Village President, and Village Clerk.

Steven Rogusta
Village President

Linda Norton
Village of Breedsville, Clerk

I do hereby certify that a synopsis of this Ordinance No. 2023-01, in accordance with statutory requirements, was published on January 14, 2023, in the Van Buren Reminder, a copy of which is attached hereto.

This ordinance shall become effective on the 14th day of February 2023.

Linda Norton
Village of Breedsville, Clerk

