

**TOWNSHIP AND VILLAGE OF LEROY
COUNTY OF OSCEOLA
ORDINANCE NO. 022025-1**

AN ORDINANCE TO AMEND THE LEROY TOWNSHIP AND VILLAGE ZONING ORDINANCE, AS AMENDED, TO ADD REQUIREMENTS FOR SOLAR ENERGY SYSTEMS

THE TOWNSHIP AND VILLAGE ORDAIN:

ARTICLE XIII. A new and additional Section 10 of the LeRoy Township and Village Zoning Ordinance is hereby added to the Zoning Ordinance as follows:

10.1300 TOWERS changed to TOWERS AND ARRAYS

10.1311 Solar Energy Systems (SES)

A. Purpose. LeRoy Township and Village desires to promote the effective and efficient use of solar energy systems subject to reasonable regulations. It is the intent of the Township and Village to permit these systems under certain circumstances by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy systems.

B. Definitions

1. Array: Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.
2. Building Integrated Photovoltaic (BIPV) Systems: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof, wall, or the façade, and which does not alter the relief of the roof.
3. Ground-Mounted Solar Energy System: A solar energy system that is installed directly in the ground and is not attached or affixed to an existing building or similar structure.
4. Onsite Solar System: A solar energy system mounted on a building or on the ground and located on a parcel containing a principal use. An onsite solar system is considered an accessory use of the parcel and provides its electricity or heat only to buildings and uses on the parcel.
5. Photovoltaic (PV) Systems: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever sunlight strikes them.

6. Rooftop Solar System: A solar energy system in which solar panels are mounted on top of a roof, either as a flush-mounted system or as modules fixed to frames which can be tilted.
7. Solar access: The right of a property owner to have sunlight shine onto the property owner's land.
8. Solar Collector: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
9. Solar Energy System (SES): Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic, and concentrated solar. This definition does not include small devices or equipment such as solar powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.
10. Solar Farm: A solar energy system which is the principal use of a parcel and which is designed and constructed to produce electrical energy for sale back into an electrical energy grid system and is not consumed on site.
11. Solar Panel: A device for the direct conversion of solar energy into electricity.
12. Solar-Thermal Systems: A system, which through the use of sunlight, heats water or other liquids for such purposes as space heating and cooling, domestic hot water, or heating pool water.
13. Wall-mounted Solar Energy System: A solar energy system that is installed flush to the surface of the wall of a permanent building.

C. General Requirements for Solar Energy Systems

1. This Section applies to all solar energy systems to be installed (or expanded) and constructed after the effective date of this Section.
2. Lawful solar energy systems constructed prior to the effective date of this Section shall not be required to meet the requirements of this Section; provided that any structural change, upgrade or modification to an existing solar energy system that

materially alters the size, area height, location or placement of such system shall comply with all of the provisions of this Section.

3. The granting of any permit for a solar energy system does not constitute solar access rights.

4. A solar energy system shall be constructed and placed so that it does not create a glare or noise for persons off site.

5. A solar energy system shall always be properly maintained. Such maintenance shall include measures to maintain the original appearance of each structure, ensuring that the solar panels do not leak and that the ground cover beneath the panels does not become a visual nuisance.

6. Solar energy systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the Township prior to installation.

7. Solar energy systems, and the installation, maintenance and use thereof, shall always comply with the Township and Village Zoning Ordinance, County building code, and all federal and state laws and the landowner shall obtain all applicable County, State of Michigan, and federal permits before installation.

8. Any SES that is not operated for a continuous period of 18 months as determined by the Township and Village shall be considered abandoned or non-functional and subject for removal. Upon a determination by the Township and Village that a SES should be decommissioned and within 90 days of receipt of written notification from the Township and Village, the owner/operator shall begin to remove the SES from the site and shall proceed promptly toward completion in accordance with the approved decommissioning plan.

9. The noise emitted from any SES shall not exceed 55 decibels at any property line for the lot on which the SES is located.

D. Requirements for Rooftop and Wall Mounted SES

1. Roof and wall mounted SES are a permitted accessory use in all zoning districts and are subject to review and approval by the Township Zoning Administrator. Applicants shall submit an accurate site plan to the Zoning Administrator providing the location of the building, location of the SES, the height of the SES including a data sheet and installation instructions from the equipment manufacturer and any other information as requested by the Zoning Administrator. The applicant shall also provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

2. A roof mounted SES shall not project more than five feet above the highest point of the roof, and in any case, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.
3. Each roof and wall mounted SES shall be securely and safely attached to a building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Zoning Administrator prior to installation along with information that the roof can support the equipment. Proof shall consist of an approved building permit.
4. Each wall mounted SES shall not exceed the height of the building wall to which it is attached.
5. Each wall mounted SES shall not be mounted on a building wall that faces upon a public or private street.

E. Level 1A Onsite Ground Mounted SES

1. A Level 1A Onsite Ground Mounted Solar Energy System is allowed in all zoning districts as a permitted accessory use subject to review and approval by the Zoning Administrator according to the following requirements:
 - a. A Level 1A Onsite Ground Mounted Solar Energy System shall not occupy an area greater than 50 square feet in size;
 - b. Applicants shall submit an accurate site plan to the Zoning Administrator illustrating property lines of the parcel, buildings on the parcel, the proposed setbacks, and height of the SES including a data sheet from the equipment manufacturer and any other information as requesting by the Zoning Administrator. The applicant shall also provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage;
 - c. A ground mounted SES is an accessory structure. A ground mounted SES is permitted on the same lot as an accessory building but shall not count as one of the permitted accessory buildings allowed by the Ordinance;

The combined area of an accessory building and SES shall not exceed the total square footage allowed by this Ordinance. The area occupied by the SES shall be measured around the outside boundaries of the solar panels not the solar panel supports;

- d. Setbacks. A Level 1A ground mounted solar energy system shall only be located in the side and rear yards except for a system that is less than 18 square feet which may be located in the front yard. All Level 1A ground mounted solar energy systems shall be set back a minimum of 10 feet from all lot lines; and
- e. Height. The height of a SES shall not exceed 10 feet above natural grade. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

F. Level 1 Onsite Ground Mounted SES

1. A Level 1 Onsite Ground Mounted Solar Energy System is allowed in all zoning districts as a permitted accessory use subject to review and approval by the Zoning Administrator according to the following requirements:

- a. A Level 1 Onsite Ground Mounted Solar Energy System shall not occupy an area greater than 5,000 square feet in size;
- b. Applicants shall submit an accurate site plan to the Zoning Administrator illustrating property lines of the parcel, buildings on the parcel, the proposed setbacks, and height of the SES including a data sheet from the equipment manufacturer and any other information as requesting by the Zoning Administrator. The applicant shall also provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage;
- c. A ground mounted SES is an accessory structure. A ground mounted SES is permitted on the same lot as an accessory building but shall not count as one of the permitted accessory buildings allowed by the Ordinance;

The combined area of an accessory building and SES shall not exceed the total square footage allowed by this Ordinance. The area occupied by the SES shall be measured around the outside boundaries of the solar panels not the solar panel supports;

- d. Setbacks. A Level 1 ground mounted solar energy system shall only be located in the side and rear yards and shall be set back a minimum of 10 feet from all lot lines; and
- e. Height. The height of a SES shall not exceed 10 feet above natural grade. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

G. Level 2 Onsite Ground Mounted SES

1. A Level 2 Onsite Ground Mounted Solar energy System occupies an area greater than a Level 1 onsite solar energy system and is allowed in all zoning districts as an accessory use subject to review and approval of a Special Use Permit by the Planning Commission in accordance with the requirements and procedures of Article 10.1311 herein and also the following requirements:
 - a. A Level 2 Ground Mounted SES shall not occupy an area greater than five (5) acres in size;
 - b. Setbacks. A ground mounted solar energy system shall only be located in the side and rear yards and shall comply with the setback requirements for principal buildings for the zoning district in which the SES is located. On a corner lot, the SES shall comply with the setback requirements for accessory buildings;
 - c. Height. A ground mounted SES shall not exceed a height of 14 feet above natural grade. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel;
 - d. Electrical Interconnections. All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the Township of approval from the applicable utility company;
 - e. The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater;
 - f. Plantings shall be installed around the perimeter of the parcel or parcels containing the SES. One deciduous or conifer tree for every 25 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be a minimum of four (4) feet tall when planted and remain in good condition for the life of the project;
 - g. Use of above ground transmission lines for the SES shall be prohibited within the site;
 - h. The applicant shall provide information to the Township on the type of solar panel to be used and any hazard chemicals contained in the solar panels and measures to prevent leakage;
 - i. A decommissioning plan shall be provided as required by subsection G(k) herein;

- j. Every SES must always be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall provide a written description of the maintenance program to be used to maintain the SES;

For Level 2 SES located in commercial and industrial zones, the applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about each anniversary date of the approval by the Planning Commission of the Special Use permit the applicant shall provide a summary of this maintenance record to the Township Zoning Administrator;

- k. Removal Cost Guarantee. The cost of removal and site restoration is the full responsibility of the landowner and the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the solar energy system and to restore the site, the following steps shall be followed:

- (1) For each solar energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

- (2) Performance Guarantee for Decommissioning: To ensure proper removal of each solar structure when it is abandoned or non-operational, the application shall include proof of the financial security in effect before a permit is approved. The security shall be licensed in the State of Michigan and be in the form of 1) cash deposit or 2) performance (surety) bond approved by the Township Board or Village Council and bonded by a top institution from the Department of the Treasury's Listing of Approved Sureties-Department Circular 570, T-list. The duration of the security shall be termed to the removal of any solar structure on site. Additionally, security shall be based on each lot and is to be backed by owner assets, operator assets, parent company assets, and leaseholder assets approved by the Township Board or Village Council;

- (i) The amount of each solar security guarantee (surety) shall be the average of at least two independent (i.e. independent of the applicant) demolition (removal) quotes, obtained by the Township or Village and approved by the Board or Council, plus 20%. If the quantity of quotes obtained is two, the formula shall be $(\text{quote 1} + \text{quote 2})/2 \times 1.20$. Quotes shall be based on removal and shall not group multiple solar simultaneous removals together. Quotes shall be ordered and obtained by the Township or Village from established demolition/removal companies. The demolition/removal method shall be approved by the

Township Board or Village Council. Quotes shall not include salvage values. Security guarantee shall be updated every five (5) years at the rate of 1.5 times CPI (Consumer Price Index) for each year;

(ii) Such financial guarantee as set forth herein shall be deposited or filed with the Township Clerk after a permit has been approved by the Joint Planning Commission but before construction operations begin on the solar project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a Township or Village approval and this Ordinance, and shall subject the applicant to all available remedies to the Township, including enforcement action, fines, revocation of the Township or Village solar approvals and permits and solar facilities removal;

(iii) The applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township if the solar structure(s) is not voluntarily removed, and the Township must enforce removal;

(iv) In the event the solar site owner, operator, parent company, or performance bond defaults on any or all of the previously outlined decommissioning requirements, the owner of any land upon which any solar site is located shall be responsible and liable for the removal of all solar structure(s). Failure of the owner to comply with the removal and decommissioning guidelines shall result in the Township having the solar structure(s) removed at the expense of the owner. The owner as a condition of issuance of the permit is deemed to grant to the Township and its agents an irrevocable license to enforce such remedies in a manner otherwise consistent with this Ordinance. If funding is not available to cover the costs of removal by the owner, legal action to pursue the seizure of property(s) will take place to cover such costs; and

(v) The surety shall remain in effect with the Township until the lot, lots, parcel or parcels involved have been reclaimed, inspected and all equipment, machinery, materials, buildings, and other operation related improvements associated with the solar site removed as required by this Ordinance and/or by the terms of the permit.

H. Level 3 Solar Farms

1. Solar farms are only allowed in the R1 -Agricultural/Rural Residential District and C/I - Commercial/Light Industrial Districts subject to review and approval of a Special Use Permit by the Planning Commission in accordance with the requirements and procedures of Article 10.1311 herein and the following requirements:

2. The minimum lot size for a solar farm shall be 20 acres. Maximum lot size shall be 250 acres. A parcel containing a solar farm shall not require frontage on a public street.

- a. Height. A ground mounted SES shall not exceed a height of 14 feet above natural grade. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel;
- b. Electrical Interconnections. All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the Township of approval from the applicable utility company;
- c. The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater;
- d. Plantings shall be installed around the perimeter of the parcel or parcels containing the SES. One deciduous or conifer tree for every 25 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be a minimum of four (4) feet tall when planted and remain in good condition for the life of the project;
- e. Use of above ground transmission lines for the SES shall be prohibited within the site;
- f. The applicant shall provide information to the Township on the type of solar panel to be used and any hazard chemicals contained in the solar panels and measures to prevent leakage;
- g. A decommissioning plan shall be provided as required by subsection G(k) herein;
- h. Every SES must always be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall provide a written description of the maintenance program to be used to maintain the SES;

For Level 3 SES located in commercial and industrial zones, the applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about each anniversary date of the approval by the Planning Commission of the Special Use permit the applicant shall provide a summary of this maintenance record to the Township Zoning Administrator;

3. Application Requirements. In addition to the site plan required by Section F of this Ordinance and the application requirements required by Section G.1.c., d., e., f., g., h., i., j., and k., the applicant shall also provide all the following information to the Township:

- a. Proof of a lease, deed, or purchase agreement for the parcel for the proposed solar farm;
- b. Type of solar panel to be used and any hazardous chemicals contained in the solar panels and measure to prevent leakage;
- c. Name and address of the manufacturer, and model of the solar panels;
- d. Name, address, and phone number of solar provider;
- e. Expected energy output and anticipated useful life of the system, development phases, likely markets for the generated energy, and possible future expansions;
- f. Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site; and
- g. Maintenance and construction schedule. The applicant shall provide a written description of the maintenance program to be used to maintain the SES, and the anticipated construction schedule.

I. Severability. Each portion of this Ordinance shall be deemed to be severable. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, such holding shall not affect the validity or enforceability of this Ordinance as a whole, or of any other part hereof.

J. Effective Date. This Ordinance shall become effective thirty (30) days after its passage and publication of a summary of its provisions in a local newspaper of general circulation and recording as required by law.