

ERIE TOWNSHIP ORDINANCE NO. #117-X  
(Amendment to Erie Township Zoning Ordinance No. #117-X)

An ordinance enacted pursuant to the authority granted in Act 110, Public Acts of 2006, as amended, better known as the Michigan Zoning Enabling Act, and according to the Master Plan of the Township, dated November 13, 2018, as amended from time to time, and to further provide for the public health, safety and general welfare of the persons and property of the Township of Erie, and to amend Erie Township Ordinance #117, known as Erie Township Zoning Ordinance, to preserve the dominant rural of Erie Township and to actively encourage the long-term protection of farmland resources by amending the following sections, for the purposes of keeping the Township's regulations for alternative energy up to date, as specified in the Master Plan of the Township, and of promoting and protecting the public health, safety and general welfare of the residents and property of the Township of Erie:

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ERIE, COUNTY OF MONROE, STATE OF MICHIGAN, ORDAINS:

SECTION 1: AMEND SECTION 11.30 SOLAR POWER PLANTS, AS FOLLOWS

11.30 Solar Power Plants

1. **Standard Requirements:** The intent of these regulations is to preserve the dominant rural of Erie Township, and to guarantee the long-term protection of farmland resources on which solar power plants are developed. For sites located in a zoning district where agriculture is a permitted use, the solar power plant shall be designed, managed and decommissioned so that land may be returned to agricultural uses at the end of the useful life of the solar power plant. A Solar Power Plant is a special use certain zoning districts and is subject to the following standard requirements:

1. **Agricultural Protection:** For sites located in a zoning district where agriculture is a permitted use, any solar power plant in a should be sited to minimize impacts to agricultural production through site design and accommodations including:
  - a. The ground mounting of panels by screw, piling, or a similar system that does not require a footing, concrete, or other permanent mounting in order to minimize soil compaction,
  - b. Siting panels to avoid disturbance and compaction of farmland by siting panels along field edges and in nonproduction areas to the maximum extent practicable and financially feasible,
  - c. Maintaining all drainage infrastructure on site, including drain tile and ditches, during the operation of the solar power plant, and
  - d. Siting the solar power plant to avoid isolating areas of the farm operation such that they are no longer viable or efficient for agricultural production, including, but not limited to, restricting the movement of agricultural vehicles/equipment for planting, cultivation, and harvesting of crops, and creating negative impacts on support infrastructure such as irrigation systems or drains.

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2. **Maximum Height:** The maximum height for all structures associated with a Solar Power Plant is equal to the maximum permitted height of principal structures in the district it is located in.
3. **Setbacks:** Solar power plant structures shall be set back from all property lines of non-participating lots and public road rights-of-way at least ~~thirty~~ fifty feet, or one and one-half times the height of the structure, whichever is greater. In addition, solar power plant structures must be located at least one hundred feet from the property line of all non-participating lots which are ~~all~~ residentially zoned ~~lots and~~ or are occupied by existing residences. Additional setbacks may be required to mitigate noise and glare impacts, or to provide for designated road or utility corridors, as identified through the Special Use Review process.
4. **Safety/Access:** An appropriate security fence (height and material to be established through the site plan review process) shall be placed around the perimeter of the solar power plant. Knox boxes and keys or other suitable access shall be provided at locked entrances for emergency personnel access.
5. **Buffer Area:** The following buffer areas shall be required for solar power plants. The Planning Commission may reduce or waive buffer area requirements provided that such reductions or waivers are in keeping with the intent of the Zoning Ordinance and the zoning district. The Planning Commission may also require additional landscaping and/or screening materials to screen the solar power plant and accessory structures from public road rights-of-way and neighboring residences:
  - a. **Public Road Rights-of-Way:** A landscaped, green buffer area of a minimum of twenty-five (25) feet in depth between the security fence and public road rights-of-way shall be placed around the perimeter of the solar power plant abutting a public road right-of-way. This buffer shall be designed to obscure 50 percent of the views through an imaginary rectangle that runs the full width of the parcel abutting the public road right-of-way, minus access drives, to a height of six feet above the final grade at the solar power plant structures closest to the public road right-of-way. Any berm constructed to meet this requirement must undulate horizontally and vertically and shall have a sloped that ranges between 1 to 3 and 1 to 4 (1-foot vertical rise to 3- or 4-foot horizontal run). Buffers may be designed to include both natural and man-made materials. Natural materials include shrubs, trees and other plant material, along with decorative landscape boulders and earth berms. Man-made materials include fences typically used for agricultural fields and similar elements that are found on farms. No more than 25 percent of the material used to achieve the performance objective described above shall be man-made materials. To the greatest extent possible, buffers should reinforce the rural character of the area, by using such techniques as planting ornamental trees in a manner similar to an orchard or earthen berms landscaped and designed to give the appearance of natural landforms.
  - b. **Abutting Residential Land:** A landscaped, green buffer area in compliance with the requirements in Section 17.03(A) shall be

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- placed around the perimeter of a solar power plant abutting the property line of any non-participating, residentially-zoned lot (R-1, R-2, R-3, R-4, R-5) or non-participating lot with an occupied residence at the time of the special land use application. A minimum of fifty percent of the plants shall be evergreen trees, with a minimum of six feet in height at the time of planting.
6. **Ground Cover:** Ground cover vegetation shall be installed throughout the solar power plant and maintained for the duration of the operation of the solar power plant, until the site is decommissioned. A ground cover establishment plan shall be required as part of the site plan and maintenance of the ground cover included in the maintenance plan required by this Section. The following standards apply:
    - a. Sites bound by a Farmland Development Rights (PA 116) Agreement must follow the Michigan Department of Agriculture and Rural Development's Policy for Allowing Commercial Solar Panel Development on PA 116 Lands.
    - b. Ground cover at sites not enrolled in PA 116 must meet one or more of the four types of Dual Use defined below:
      - i. Pollinator Habitat: Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
      - ii. Conservation Cover: Solar sites designed in consultation with conservation organizations that focus on restoring native plants, grasses, and prairie with the aim of protecting specific species (e.g., bird habitat) or providing specific ecosystem services (e.g., carbon sequestration, soil health).
      - iii. Forage: Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.
      - iv. Agrivoltaics: Solar sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use.
  7. **Lot Coverage:** Buildings in solar power plants are subject to lot coverage requirements for the zoning district in which the building is located. All other components of a solar power plant, including but not limited to photovoltaics (PV), concentrating solar thermal devices (CST) or various experimental solar technologies, shall not count towards the maximum lot coverage of principal or accessory buildings or structures.
  8. **Access Drives:** New access drives within the solar power plant shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for the construction of temporary drives during the construction of the solar power plant is permitted, provided that the geotextile fabrics and gravel are removed once the solar power plant is in operation.
  9. **Purchase Power Agreement:** Applicants shall provide a Purchase Power Agreement or other verified commitment with the local utility, for the purchase of the power produced on the proposed site.

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10. **Contamination:** The applicant shall furnish soil tests prior to construction, at each periodic review of the decommission plan, and at the time of decommissioning. The applicant shall furnish an assurance in a form acceptable to Erie Township that guarantees that the photovoltaic panels, associated electrical, support structures, or any portion of the solar power plant system will not contaminate the soil/site in any way to prevent the returning to agricultural purposed on decommissioning. This assurance may be part of the required assurance in the decommission plan.
11. **Approval and Requirements:** Nothing in this Section preclude the project from complying with all the requirements of the Zoning Ordinance, including special land use or site plan approval.
12. **Repowering:** Repowering is reconfiguring, renovating, or replacing a solar power plant to maintain or increase the power rating of the solar power plant within the existing project footprint. In addition to repairing or replacing solar power plant components to maintain the system, a solar power plant may at any time be repowered, without the need to apply for a new special use or site plan, by reconfiguring, renovating, or replacing the solar power plant to increase the power rating within the existing project footprint. A proposal to change the project footprint of an existing solar power plant shall be considered a new application, subject to the ordinance standards at the time of the request.
13. **Decommissioning:** A decommission plan is required as part of the special land use application.
  - a. **Decommission Plan Requirements:** The decommission plan shall include the following, at a minimum:
    - i. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g., access drive, fencing), or restored for viable agricultural reuse of the property consistent with the zoning district.
    - ii. The projected decommissioning costs for removal of the solar power plant (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands.
    - iii. The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of surety bond, irrevocable letter of credit, or cash deposit).
  - b. **Periodic Review:** A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every 3 years, for the life of the project, and approved by the Township Board. A solar power plant owner may at any time:
    - i. Proceed with the decommissioning plan approved by the Township Board and remove the system as indicated in the most recent approved plan; or

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- ii. Amend the decommissioning plan with Township Board approval.
    - c. Decommissioning: Decommissioning a solar power plant must commence when the soil is dry to prevent soil compaction and must be complete within 18 months after abandonment. A solar power plant that has not produced electrical energy for 12 consecutive months shall prompt a revocation hearing of the special land use permit.
2. **Performance Standards:** Solar power plants shall meet the following requirements:
1. **Noise:** No operating solar power plant shall produce noise that exceeds more than ~~5~~ 50 dB(A) above ambient sound pressure levels. Adequate setbacks shall be provided to comply with these limitations.
  2. **Visual Appearance:** Solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment. ~~Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.~~ No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process. Aircraft sensor systems to turn the lights on only when low-flying aircraft are in the area may be required.
  3. **Lighting:** Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary and full cut-off lighting may be required when determined necessary to mitigate visual impacts.
  4. **Glare:** No solar power plant shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring roads.
  5. **Electrical Interconnections.** All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the planning commission because of severe environmental constraints (e.g., wetlands, cliffs, hard bedrock), and except for power lines that leave the project or are within the substation. Any above-ground wiring within the footprint of the solar power plant shall not exceed the height of the solar array at maximum tilt. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.
  6. Land Clearing: Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during grading as part of site preparation on the property shall be retained on site.

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7. **Site Drainage Review:** Site drainage shall be reviewed and approved by the Monroe County Drain Commission.
8. **Site Maintenance:** A plan for ongoing maintenance of the solar power plant site acceptable to the Planning Commission shall be provided. The maintenance plan shall include, but is not limited to, the following: maintenance of landscaping, ground cover, and grass, and abatement of noxious weeds.

## SECTION 2. AMEND SECTION 14.08 SOLAR POWER PLANT TO INCLUDE .

## 14.08 Solar Power Plant

1. A Solar Power Plant is a utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity. Solar Power Plants are permitted, ~~or special uses~~ in zoning districts in accordance with Article 10, are subject to site plan review pursuant to Article 4 and must meet the following development requirements:
  - (A) **Maximum Height:** The maximum height for all structures associated with a Solar Power Plant is equal to the maximum permitted height of principal structures in the district it is located in.
  - (B) **Setbacks:** Solar power plant structures shall be set back from all property lines of non-participating lots and public road rights-of-way at least thirty feet, the required setback for the relevant yard in the zoning district of the subject site, or one and one-half times the height of the structure, whichever is greater of those three dimensions. In addition, solar power plant structures must be located at least one hundred feet from the property line of all non-participating lots which are ~~all~~ residentially zoned ~~lots and~~ or, at the time of the site plan application, are occupied by existing residences. Additional setbacks may be required to mitigate noise and glare impacts, or to provide for designated road or utility corridors, as identified through the site plan review process.
  - (C) **Safety/Access:** An appropriate security fence (height and material to be established through the site plan review process) shall be placed around the perimeter of the solar power plant. Knox boxes and keys or other suitable access shall be provided at locked entrances for emergency personnel access.
  - (D) **Buffer Area:** The following buffer areas shall be required for solar power plants. The Planning Commission may reduce or waive buffer area requirements provided that such reductions or waivers are in keeping with the intent of the Zoning Ordinance and the zoning district. The Planning Commission may also require additional landscaping and/or screening materials to screen the solar power plant and accessory structures from public road rights-of-way and neighboring residences:
    1. Public Road Rights-of-Way: A landscaped, green buffer area a minimum of fifteen (15) feet in depth between the security fence and public road rights-of-way shall be placed around the perimeter of the solar power plant abutting a public road right-of-way. This buffer shall be designed to obscure 50 percent of the views through an imaginary rectangle that runs the full width of the parcel abutting the public road right-of-way, minus access drives, to a height of six feet above the final grade at the solar power plant structures closest to the public road right-of-way. Any berm constructed to meet this requirement must undulate horizontally and vertically and shall have a sloped that ranges between 1 to 3 and 1 to 4 (1-foot vertical rise to 3- or 4-foot horizontal run). Buffers may be designed to include both natural and man-made materials. Natural materials include shrubs, trees and other plant material, along with decorative landscape boulders and earth berms. Man-made materials include decorative fences,

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trellises, and similar elements. No more than 25 percent of the material used to achieve the performance objective described above shall be man-made materials.

2. Abutting Land Residential Zoning: A landscaped, green buffer area in compliance with the requirements in Section 17.03(A) shall be placed around the perimeter of a solar power plant abutting the property line of any non-participating, residentially-zoned lot (R-1, R-2, R-3, R-4, R-5). A minimum of fifty percent of the plants shall be evergreen trees, with a minimum of six feet in height at the time of planting.
- (E) **Ground Cover:** Ground cover vegetation shall be installed throughout the solar power plant and maintained for the duration of the operation of the solar power plant, until the site is decommissioned. A ground cover establishment plan shall be required as part of the site plan and maintenance of the ground cover included in the maintenance plan required by this Section. Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain impervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements.
- (F) **Lot Coverage:** Buildings in solar power plants are subject to lot coverage requirements for the zoning district in which the building is located. All other components of a solar power plant, including but not limited to photovoltaics (PV), concentrating solar thermal devices (CST) or various experimental solar technologies, shall not count towards the maximum lot coverage of principal or accessory buildings or structures.
- (G) **Noise:** No operating solar power plant shall produce noise that exceeds 50 dBA, as measured at the property line of any residentially-zoned lot (R-1, R-2, R-3, R-4, R-5), or 60 dBA as measured at any other property lines. Adequate setbacks shall be provided to comply with these limitations.
- (H) **Visual Appearance:** Solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment. ~~Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.~~ No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process. Aircraft sensor systems to turn the lights on only when low-flying aircraft are in the area may be required.
- (I) **Lighting:** Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary and full cut-off lighting may be required when determined necessary to mitigate visual impacts.
- (J) **Glare:** No solar power plant shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring roads.
- (K) **Electrical Interconnections:** All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the planning commission because of severe environmental constraints (e.g. wetlands, cliffs, hard bedrock), and except for power lines that leave the project or

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are within the substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

- (L) **Site Drainage:** Site drainage shall be reviewed and approved by the Monroe County Drain Commission.
- (M) **Site Maintenance:** A plan for ongoing maintenance of the solar power plant site acceptable to the Planning Commission shall be provided. The maintenance plan shall include, but is not limited to, the following: maintenance of landscaping, ground cover, and grass, and abatement of noxious weeds.
- (N) **Purchase Power Agreement:** Applicants shall provide a Purchase Power Agreement or other verified commitment with the local utility, for the purchase of the power produced on the proposed site.
- (O) **Approval and Requirements:** Nothing in this Section preclude the project from complying with all the requirements of the Zoning Ordinance, including site plan approval.
- (P) **Repowering:** Repowering is reconfiguring, renovating, or replacing a solar power plant to maintain or increase the power rating of the solar power plant within the existing project footprint. In addition to repairing or replacing solar power plant components to maintain the system, a solar power plant may at any time be repowered, without the need to apply for a new site plan, by reconfiguring, renovating, or replacing the solar power plant to increase the power rating within the existing project footprint. A proposal to change the project footprint of an existing solar power plant shall be considered a new application, subject to the ordinance standards at the time of the request.

SECTION 3. REPEAL.

All ordinances or parts of ordinances, in conflict with this Ordinance are hereby repealed.

SECTION 4: SEVERABILITY.

This Ordinance, and the various parts, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is determined unconstitutional or invalid by a court of law, the remaining Ordinance will not be affected.

SECTION 5: EFFECTIVE DATE.

This Ordinance shall become effective eight (8) days after publication in a newspaper of general circulation in the Township of Erie, County of Monroe, State of Michigan, unless otherwise provided by law.

THE TOWNSHIP BOARD OF THE  
TOWNSHIP OF ERIE, COUNTY OF  
MONROE, STATE OF MICHIGAN:

By: \_\_\_\_\_  
Kim Cousino, Erie Township Clerk

AUTHENTICATED:

By: \_\_\_\_\_  
William D. Frey, Erie Township Supervisor

