

Chapter 2
DEFINITIONS

Section 202. Definitions

"Solar Energy Facility (SEF)" means an energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems.

"Solar Electric System (SES)" means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.

Chapter 3
ZONING DISTRICTS AND MAP

Section 308 (1). A-1 Agricultural: Farmland Preservation District.

(B) Permitted Uses.

(15) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(18) Primary and Secondary Use Solar Energy Facilities.

Section 308 (2). A-2 Agricultural: Dispersed Residential District.

(B) Permitted Uses.

(16) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(18) Primary and Secondary Use Solar Energy Facilities.

Section 308 (3). R-1 Residential: Single-Family District.

(B) Permitted Uses.

(9) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(8) Primary and Secondary Use Solar Energy Facilities.

Section 308 (4). R-2 Residential: One and Two-Family District.

(B) Permitted Uses.

(6) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(9) Primary and Secondary Use Solar Energy Facilities.

Section 308 (5). R-3 Residential: Multi-Family District.

(B) Permitted Uses.

(12) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(11) Primary and Secondary Use Solar Energy Facilities.

Section 308 (6). MH Residential: Mobile Home Park District.

(B) Permitted Uses.

(8) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval. (6)

Primary and Secondary Use Solar Energy Facilities.

Section 308 (7). TC: Town Center District.

(B) Permitted Uses.

(15) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(12) Primary and Secondary Use Solar Energy Facilities.

Section 308 (8). B-1 Commercial: Local Business District.

(B) Permitted Uses.

(10) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval. (8)

Primary and Secondary Use Solar Energy Facilities.

Section 308 (9). B-2 Commercial: Intensive District.

(B) Permitted Uses.

(10) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval. (10)

Primary and Secondary Use Solar Energy Facilities.

Section 308 (10). B-3 Commercial: Wholesale and Business Services District.

(B) Permitted Uses.

(12) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval. (15)

Primary and Secondary Use Solar Energy Facilities.

Section 308 (11). M-1 Industrial: Limited Manufacturing District.

(B) Permitted Uses.

(19) Direct Use Solar Energy Facilities

(20) Secondary Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(18) Primary Use Solar Energy Facilities.

Section 308 (12). M-2 Industrial: Intensive Manufacturing District.

(B) Permitted Uses.

(8) Direct Use Solar Energy Facilities

(9) Secondary Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval. (16)

Primary Use Solar Energy Facilities.

Section 308 (13). AP Airport District.

(B) Permitted Uses.

(2) Direct Use Solar Energy Facilities

(C) Permitted Uses after Special Use Approval.

(8) Primary and Secondary Use Solar Energy Facilities.

Chapter 4

USE STANDARDS

Section 402. Scope of Regulations.

(PP) Solar Energy Facilities

(1) Purpose

The purpose of the Ordinance is to facilitate the construction, installation and operation of a Solar Energy Facilities (SEFs) in Buena Vista Township in a manner that protects public health, safety and welfare and avoids significant impacts to protected resources such as important agricultural lands, endangered species, high value biological habitats and other protected resources. It is the intent of this ordinance to encourage solar facilities that reduce reliance on foreign petroleum supplies, increase local economic development and job creation, reduce greenhouse gas emissions, and/or promote economic development diversification.

(2) Definitions

- a. "Applicant" is the Landowner, developer, facility owner, and/or operator with legal control of the project, including heirs, successors and assigns, who has filed an application for development of a Solar Energy Facility under this Ordinance.
- b. "Landowner" means the persons or entities possessing legal title to the Parcel(s) upon which a SEF is located
- c. "Parcel" means all land within a legally established parcel.
- d. "Practicable" means it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
- e. "Protected Lands" means, for the purpose of this section only, lands containing resources that are protected or regulated by established regulatory standards of local, state, and federal agencies, conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.
- f. "Review Authority" means Buena Vista Township.
- g. "Solar Energy Facility (SEF)" means an energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems.

- h. "Solar Electric System (SES)" means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.

"Uses Allowed" means one of the following:

- a. Direct Use — a SEF designed and installed to provide on-site energy demand for any legally established use of the property.
- b. Primary Use — a SEF that uses over 50% of the Parcel(s) and is devoted to solar electric power generation primarily for use off-site.
- c. Secondary Use — a SEF that is not the Primary Use of the property and uses less than 50% of the Parcel(s) land area.

(3) Applicability

- A. This Ordinance applies to the construction of any new SEF within the Township.
- B. A SEF legally established or permitted prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, however:
 - a. Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this Ordinance. Only the modification or alteration is subject to this Ordinance;
 - b. Substantial conformance review determinations are not major amendments to a project's existing permits; and
 - c. Routine operation and maintenance or like-kind replacements do not require a permit.

(4) Permit Required

The type of permit required for SEFs shall be as shown in Table 1 Permit Requirements

Table 1. Permit Required

	Accessory Use	Direct Use	Primary Use	Secondary Use
Agricultural/ Residential	P	P	SLU	SLU
Commercial/ Office	P	P	SLU	SLU
Industrial	P	P	SLU	P

P: Permitted Use SLU: Special Land Use

(5) Parcel Line Setbacks

The following setbacks from the Parcel line to the closest part of the SEF shall be established as shown in Table 2. Fencing, roads and landscaping may occur within the setback.

Table 2. Setbacks

	Accessory Use	Direct Use	Primary Use	Secondary Use
Setback from All Property Lines	Per Zoning for that District		75 feet	75 feet

- A. For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes.
 - B. Roof mounted solar energy systems are limited to five (5) feet above roof surface not to exceed the roof ridge and may project above the height limit.
 - C. Ground mounted solar energy systems are limited to fifteen (15) feet in height.
- (7) General Requirements (apply to all SEF Uses unless otherwise noted)
- A. Building Permits Are Required —
 - a. Nothing in this chapter modifies the minimum building standards required to construct a SEF, consistent with applicable building and fire codes. The SEF components and all accessory equipment shall comply with the most recently adopted Building Code as determined by the Building Official and Fire Code as determined by the Fire Official.
 - b. A site plan shall be provided at the time of the Building Permit application demonstrating compliance with the setbacks in Tables 1 and 2.
 - c. The Building Permit shall include review by local permitting departments including, but not limited to, the local Fire Authority, for Health and Safety Requirements.
 - B. Supplemental Information Required-
 - a. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
 - b. On site power lines between solar panels and inverters shall be placed underground.
 - c. If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
 - d. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
 - e. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.
 - f. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
 - g. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
 - h. For ground mounted SEF, a description of the ground covering of native Michigan plantings beneath the solar panels (i.e. grass, plantings) and a plan for maintaining the ground cover.
 - C. Off-Site Facilities — When the SEF is located on more than one Parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.
 - D. Glare — Any glass, plastic, or metal panels must not produce glare that is visible from the street or any neighboring home.
 - E. Septic System Avoidance — The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Health;
 - F. Floodplain Avoidance — If located in a floodplain as designated by FEMA, or an area of known localized flooding, all panels, electrical wiring, automatic transfer switches, inverters, etc. shall be located above the base flood elevation; and, shall not otherwise create a fire or other safety hazard as determined by the Building Official.
 - G. Conform to Development Standards for Underlying Zone — The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein;
 - H. Visibility
 - a. All Areas - All ground mounted facilities shall:
 - i. If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent Parcel or the night sky;
 - ii. Not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the facility owner;

- iii. Be sited behind existing vegetation (which shall be supplemented with landscaping where not adequate to screen the project) or be sited using the natural topography to screen the project; and

I. Abandonment

- a. A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Planning Director or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SEF.
- b. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SEF and restore the site to its condition prior to development of the SEF within three hundred and sixty (360) days of notice by the Planning Director or his designee.
- c. If the responsible party (or parties) fails to comply, the Planning Director or his designee may remove the SEF, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a nonhazardous pre-development condition.
- d. Facilities deemed by the Township to be unsafe and facilities erected in violation of this section shall also be subject to this Section. The code enforcement officer or any other employee of the Planning and Building Departments shall have the right to request documentation and/or affidavits from the Applicant regarding the system's usage, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred.
- e. Upon a determination of abandonment or other violation(s), the Township shall send a notice hereof to the Applicant and/or Landowner, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within ninety (90) days of notice by the Township, unless the Township determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the Township may advise the Applicant and/or Landowner of such alternative means of resolving the violation(s).
- f. If the Applicant and/or Landowner do not comply, the Township may remove the SEF and restore the site and may thereafter (a) draw funds from any bond, security or financial assurance that may have been provided or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

(8) Solar Energy Facilities- Direct Use

- A. **General Requirements.** Direct Use SEFs provide energy for on-site use. In addition to the General Requirements in Section 3.55.07, the following standards shall apply to all Direct Use SEF, notwithstanding the development standards for the underlying zone:
 - a. Lot Coverage — Allowable lot coverage varies by the underlying zoning district.
 - b. Setbacks — Ground mounted structures shall conform to the setbacks as shown in Table 2.
 - c. Height Limits — Facilities shall conform to the height limits of Table 3.
- B. **Biological Resources.** The protection of high value biological resources is an important consideration. Direct Use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, State, or Federal agencies.

(9) Solar Energy Facilities- Primary and Secondary Uses

- A. **General Requirements.** Primary or Secondary Uses that provide energy for on-site or off-site use as shown in Table 1 subject to a special land use permit. In addition to the General Requirements in Section 3.55.07, the following standards shall apply to all Primary and Secondary SEF, notwithstanding the development standards for the underlying zone:
 - a. Lot Coverage — Over 50% lot coverage for a Primary Use, under 50% lot coverage for a Secondary Use;
 - b. Setbacks — Ground mounted structures shall conform to the setbacks as shown in Table 2. The buffer may be reduced if the decision-making body determines that there is a substantial screen such as existing topography or landscaping vegetation and/or an operational management plan and/or an agricultural operation easement is provided;

- c. Height Limits — Facilities shall conform to the height limits of Table 3;
 - d. Grading - Grading within the Township shall be limited to only that necessary to construct access roads and install equipment, unless the areas are determined to be chemically or physically impaired.
- B. Biological Resources — The protection of high value biological resources is an important consideration. Primary or Secondary Use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, State, or Federal agencies.
- C. No portion of the SEF or their structures shall occupy Protected Lands. Protected Lands that are potentially incompatible locations, requiring Special Land Use permits, include:
- a. Wetlands, wetland transition areas, riparian corridors, or open water.
 - b. Habitat of special status, threatened, endangered, candidate, or fully protected species, species of special concern, or species protected local, State, and Federal agencies.
 - c. Lands within easements where SEF is a prohibited use.
- D. Soil Stabilization, Erosion Control and Ground Water Management — For Primary and Secondary Use SEFs, the following requirements shall apply:
- a. To the extent feasible and compatible with the climate and pre-project landscaping of the property the site shall be restored with native vegetation. The re-vegetation plans shall be reviewed and approved by the Township and Saginaw County. All areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the Planning Department.
 - b. A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff shall be provided subject to approval by the review authority.
 - c. A maintenance plan shall be submitted for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.
 - d. Prior to issuing a final Building Permit, an as-built grading and drainage plan, prepared by a licensed professional surveyor or other approved qualified professional shall be submitted to the reviewing agency's engineer for review and approval. The plan shall show that the as-built conditions are substantially the same as those shown on the approved grading and drainage plan.
- E. Decommission Plan
- a. The SEF project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment.
 - b. Decommissioning shall include: Removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or facility abandonment.
 - c. The Decommissioning Plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited.
 - d. The Decommissioning Plan shall also include an agreement between the applicant and the Township as part of the Special Land Use Application and prior to the beginning of construction that:
 - e. The applicant shall post a performance bond or equivalent financial instrument for decommissioning. The bond shall be in favor of Buena Vista Township and shall be in an amount of at least two hundred fifty thousand dollars (\$250,000.00) and shall contain a replenishment obligation. Evidence of decommissioning bond shall be in the form of an escrow account, surety bond, letter of credit subject to approval of the Buena Vista Township Planning Commission to guaranty decommissioning of an abandoned site. If surety bond is utilized, it must be pursuant to US Treasury bond list.
 - f. The Township shall have access to the escrow account funds, performance bond and/or equivalent financial instrument for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of the project life or facility abandonment as defined.

- g. The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - h. The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow, performance bond and/or equivalent financial instrument and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.
 - i. The applicant agrees to all the terms of this Ordinance.
- F. Aviation Notification
- a. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official and the Federal Aviation Administration's (FAA) Airport District office (ADO) with oversight of Michigan. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.
 - b. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport not listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.

(10) Severability

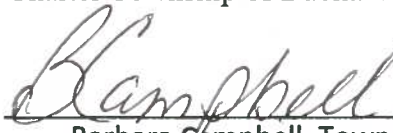
If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

CERTIFICATION

STATE OF MICHIGAN

COUNTY OF SAGINAW

I, Barbara Campbell do hereby certify that I am the duly appointed Township clerk of the Charter Township of Buena Vista and that the foregoing ordinance was introduced to the Township of Buena Vista and that thereafter said ordinance was adopted by a majority of the Township board by a roll call vote at a Regular Board meeting of the Township Board of the Charter Township of Buena Vista held on the 27th day of August, 2018.



Barbara Campbell, Township Clerk

YEAS: Supervisor Christina Dillard, Trustees' Bruce McKinney, Cheryl Payton, Al Jernigan,
Vannessa Curry

NAYS: None

ABSENT: Clerk Barbara Campbell, Treasurer Desmond Bibbs

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