

Garfield Township
Solar Ordinance

Garfield Township, Bay County, hereby ordains:

Section 1: Purposes and Objectives.

1. To preserve the dignity and aesthetic quality of the environment in Garfield Township.
2. To preserve the physical integrity of land in close proximity to residential areas.
3. To preserve and protect the health, welfare, safety, and quality of life for the citizens of Garfield Township.
4. To protect and enhance the economic viability and interests of the citizens and residents of Garfield Township who have made substantial financial investments in homes, farms, businesses, and industry in Garfield Township.
5. To facilitate the construction, installation, and operation of solar energy facilities (SEFS) in the township of Garfield in a manner that minimizes the adverse impacts to forestry, agricultural, commercial and residential lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state, or federal law.

Section 2: Amendment to Section 7.02

Section 7.02 of the Township's Zoning Ordinance is hereby amended to add the following definitions:

Abandonment: A SEF that ceases to produce energy on a continuous basis for 6 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 6 months of no energy production) to the planning commission of the intent to maintain and reinstate the operation of that facility. This includes a Solar Energy Facility that was never operational if construction has been halted for a period of 6 months.

Ancillary solar equipment: shall mean any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters, inverters or water heater tanks.

Decommissioning plan: shall mean a document that details the planned shut down or removal of a solar energy facility from operation or usage as further governed by this ordinance.

Fence: for purpose of this ordinance, "fence" shall mean a continuous barrier extending from the surface of the ground to a uniform height of not less than eight (8) feet from the

ground at any given point, constructed of topsoil, wood, stone, steel, or other metal, or any substance of a similar nature and strength.

Gate: shall mean a door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

Improved area: shall mean any area containing solar panels, electrical inverters, storage buildings, ancillary solar equipment and access roads.

Residence: shall mean a building used as a dwelling for one or more families or persons.

Residential area: shall mean an area zoned for residential use, specifically the Agricultural/Rural Residential District, the Medium Density Residential District and the High Density Residential District.

Solar collector surface: shall refer to any part of a solar energy system that absorbs solar energy for the use in the transformation process. The collector surface does not include frames, supports, and mounting hardware.

Solar energy: shall mean radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

Solar energy facility (SEF): shall mean an energy facility, and area of land, or a structural roof top, principally used to convert solar energy into electricity, which includes, but is not limited to, solar collectors and ancillary equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar energy facilities include but are not limited to, photovoltaic (pv) power facilities and solar thermal facilities.

- 1. Personal scale sef:** shall mean a solar energy facility that is accessory to the principal use on site. The total surface area of all solar collector surfaces within a personal scale ses shall not exceed 1500 square feet or 20kw. The sale and distribution of excess available energy, if permitted, to an authorized state licensed public utility for distribution shall be incidental to this type of system and not its primary purpose. Sale of excess energy to anything other than an authorized state licensed public utility shall be prohibited.
- 2. Utility scale sef:** shall mean a solar energy facility that meets one or more of the following:

- a. Is primarily used for generating electricity for sale and distribution to an authorized state licensed public utility.
 - b. The total surface of all solar collector surfaces exceeds 1500 square feet or 20kw.
 - c. Is not an accessory use or structure to the principal use on site.
3. **Building mounted ef:** shall mean a solar energy facility affixed to a permanent principal or accessory building (i.e. a roof or a wall).
 4. **Ground mounted sef:** shall mean a freestanding solar energy facility that is not attached to and is separate from any building on the parcel of land on which the solar energy system is located.

Section 3: Addition of new Section 4.57 entitled Solar Energy Facility

Section 4.57, entitled “Solar Energy Facility,” is added to Article IV of the Township’s Zoning Ordinance. The section reads in its entirety as follows:

Section 4.57 Solar Energy Facility.

A: General Requirements

All solar energy facilities are subject to the following general requirements:

- A. **LOCAL, STATE AND FEDERAL PERMITS.** All Solar Energy Facilities shall be required to obtain all necessary permits from the Michigan Department of Environmental Quality (see Section 7.03.A.4.b) and any applicable municipal/county or Federal permits.
- B. Solar energy facilities shall be located or placed so that the concentrated solar glare shall not be directed towards or onto nearby properties, roadways, or Airway flight paths, at any time of the day.
- C. **AGREEMENTS/EASEMENTS.** If the Zoning Lot on which the project is proposed is to be leased, rather than owned, by the owner of a Utility Scale SEF, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the owner of the Utility Scale SEF and property owners must be in place prior to commencing construction, unless specified otherwise by the special land use permit.

B: Standards for Personal Scale SEFs

1. **Personal scale solar energy facility:** Personal scale solar energy facilities shall be permitted by right in all zoning districts. A building permit shall be required for the installations of any personal solar energy facilities.

2. Roof or Building Mounted Personal Scale Solar Energy Facilities: Roof or building mounted personal scale solar energy facilities shall be considered an accessory used in all zoning districts, subject to the following requirements:

A. No part of the solar energy system erected on a roof shall extend beyond the peak of the roof. If the solar energy facility is mounted on a building in an area other than the roof, no part of the solar energy facility shall extend beyond the wall that it is mounted on.

B. No part of a solar energy facility mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, eave, or valley in order to maintain pathways of accessibility.

C. No part of a solar energy facility mounted on a roof shall extend more than two (2) feet above the surface of the roof.

D. A building permit is required.

E. In the event that a roof or building mounted personal scale solar energy facility has been abandoned, the property owner shall notify the township and shall remove the system within 6 months from the date of abandonment.

3. Ground mounted personal scale solar energy facilities. Ground mounted Personal scale solar energy facilities shall be considered an accessory use in all zoning districts, subject to the following requirements.

A. Prior to the installation of a ground mounted personal scale solar energy facility, the property owner shall submit a site plan to the zoning administrator. The site plan shall include setbacks, panel size, and the location of property lines, buildings, fences, green belts, and road right of ways. The site plan must be drawn to scale.

B. A ground mounted personal scale solar facility shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted personal scale solar energy facility exceed sixteen (16) feet above the ground when oriented at a maximum tilt.

C. The maximum lot coverage for a ground mounted personal scale solar energy facility shall be 20% of the total lot area.

D. A ground mounted personal scale energy system shall be located in the rear or side yard and shall meet building setbacks in both rear and side yards in the underlying zoning district.

E. All power transmission or other lines, wires or conduits from ground mounted personal scale solar facilities to any building or other structure shall be located underground.

F. If batteries are to be used as part of the ground mounted personal scale solar facility, they must be placed in a secured container or enclosure.

G. In the event that a ground mounted personal scale solar energy

facility has been abandoned, the property owner shall notify the township and shall remove the system within 6 months from the date of abandonment.

H. A building permit is required.

C: Standards for Utility Scale SEFs

Utility scale sefs shall be permitted by a special land use in agricultural and rural residential districts only, subject to the following standards, in addition to any other requirements for special land use approval:

1. Utility Scale SEFs shall be ground mounted.
2. **Setbacks.**
 - A. Front yard: Utility scale solar energy facilities shall be set back at least five hundred (500) feet from the road right of way line.
 - B. Each side yard and rear yard setback shall be a minimum of five hundred (500) feet from the property line if adjacent to non-residential property.
 - C. Each side yard and rear yard setback shall be five hundred (500) feet from the property line if the system is located next to a residential property.
 - D. Each setback from drains, rivers and flood zones shall be five hundred (500) feet.

3. **MAXIMUM HEIGHT.** The maximum height for a solar panel shall be fifteen (15) feet when oriented at maximum tilt. The maximum height of a Power Switchyard (as defined in Section 20.01.75.25.d) shall not exceed the minimum height needed to tie into electric transmission lines. The height of all other buildings and accessory structures shall comply with the maximum building height requirements of the applicable zoning district in which the Solar Energy Facility is located, as listed in Article XV. The height of required lightning rods attached to the Power Switchyard or Utility Scale SEF related equipment shall not be subject to the foregoing height limitations. The height of lightning rods shall be limited to that height necessary to protect the Power Switchyard and Utility Scale SEF equipment from lightning.

4. Lot Considerations:

- A. The maximum area utilized for Utility Scale SEFs shall not exceed six hundred and forty (640) acres for the entire township. This area is for the entire SEF including but not limited to, the solar panel(s), spaces between the solar panels, fencing, screening, landscaping, ancillary equipment, etc.
- B. The number of Utility Scale SEFs (all property within the SEF is adjacent) shall not exceed two (2) for the entire township.
- C. Minimum lot area for a utility scale solar energy facility shall be twenty (20) acres.
- D. 30% maximum lot coverage within perimeter.

5. Lighting: On site lighting shall meet the performance standards of the Garfield township zoning ordinance. Lighting shall be limited to that required for safety and operational purposes, and shall be directed downward and shielded from abutting properties. Motion activated lighting shall be required for control house, gate, and inverters during non daylight hours. Motion activated security system shall be required, in no cases shall any illumination from such lighting extend beyond the perimeter.

6. Signage: Signs shall comply with the requirements described in the Garfield township zoning ordinance. Further, utility scale energy facility installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy facility. An information sign shall be posted and maintained at every entrance which lists the name and phone number of the operator.

7. Warning signage: Signs warning of the high voltage associated with Utility Scale SEF shall be posted at every entrance to the facility, at the base of all pad mounted transformers and substations. A sign that provides emergency contact information, such as phone number, shall be posted near the transformers and the operations and maintenance building. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Additionally, a sign shall be posted at every entrance containing the following information: Emergency contact, emergency phone number, and emergency shutdown procedures. The utility company is responsible to provide knox box information to responders.

8. Screening: When a utility scale solar energy facility is adjacent to a residentially zoned or used lot, front, side, and rear yard screening shall be required as determined by the planning commission to address specific site needs at the time of site plan review. Solar panels shall be placed such that concentrated radiation or solar glare shall not be directed onto nearby properties or roadways. When deemed appropriate, the planning commission may require a report from a registered civil engineer or other professionals to address this issue.

9. Landscaping:

- A. Buffer: The design of a Utility Scale SEF' buffers shall use materials, colors, textures, screening, and landscaping that will blend the facility into the natural setting and existing environment.

All Utility Scale SEF shall have a minimum landscape buffer of fifteen (15) feet. The buffer shall contain a berm of a height at least two (2) feet taller than the highest point of the utility scale SEF and accessory structures from view from adjacent properties and the road right-of-way. The berm shall be planted with non-invasive plant species (grasses or similar natural vegetation) to minimize erosion on the slope. At least fifty (50) percent of plants must be native evergreen trees, which shall not be less than four (4) feet tall at the

time of planting. In addition, the buffer will include planting three (3) staggered rows of evergreen trees or bushes no more than eight (8) feet apart and at least four (4) feet tall at the time of planting. One row shall be at least six (6) feet tall. Planting shall take place between March 15th and September 30th. Height at maturity shall be no less than ten (10) feet and width of not less than eight (8) feet. The trees or bushes may be trimmed but no lower than a height of fifteen (15) feet. A buffer area will not be required between a solar energy facility and an industrial, agriculture, timber, or commercial use.

All ground vegetation shall be an approximate 50/50 of grasses and perennials. Perennials shall be native to Michigan and be from butterfly weed, calamint, cheddar pinks, sedum yarrow.

Perennial vegetative ground cover must be maintained or established in all areas containing solar arrays to prevent erosion and manage runoff.

B. **Maintenance:** Each owner, operator, or maintainer of a solar energy facility to which this ordinance applies to use vegetation as defined above with wire fence, shall utilize good husbandry techniques with respect to said vegetation, including but limited to proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time, not to exceed 1 year. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed 12 inches in height.

C. **Site Clearing:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the installation. No topsoil shall be removed from the construction site. No more than two (2) inches of top soil shall be moved from the original landscape. Other items such as lumber, stones, etc. may be removed upon written consent of the Garfield township planning commission.

10. MEDIUM VOLTAGE CABLE. All medium voltage cable within the project boundary shall be installed underground at a depth of at least six (6) feet below grade, unless determined otherwise by the planning commission because of severe environmental constraints (e.g. wetlands, cliffs, hard bedrock), and except for Power Switchyards or area within a substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

11: Fencing/Screening: A Utility Scale SEF shall be completely enclosed by a perimeter security fencing to restrict unauthorized access.

12. Noise Mitigation. Transformers and Inverters shall be located in the center of the site to help mitigate noise heard at the property lines.

13. Sound Pressure Level. Utility Scale SEFs shall not exceed 45 dB(A) (Lmax) / 55 dB(C) (Lmax) as measured at the property line or lease unit boundary closest to the SEF, measured in accordance with the protocol set forth in Section 4.57(e)(13)(ii). A written waiver of the sound pressure level may be approved by the Township, provided that the written waiver is signed by the owner of the affected Non-Participating or Participating Parcel(s) and recorded with the Bay County Register of Deeds. The waiver applies only to sound pressure levels measured at the property line of the parcel identified in the written waiver and to no other property.

14. Transfer or sale:

- A. In the event of a transfer or sale of the SEF, the Township shall be notified and the special land use, may be amended administratively by the Township Board to document the transfer or sale without a public hearing.
- B. Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively.
- C. Any proposed changes to the operating procedure or approved site plan constitute an amendment to the special land use permit and must be resubmitted to the Township review according to the procedures for all SEF as outlined herein, including a public hearing.
- D. Upon transfer or sale, the security bond or escrow or letter of irrevocable credit shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond or escrow or letter of irrevocable credit adjusted as necessary to account for the new estimate.

15. The Utility Scale SEF shall have a containment system (i.e. liner, etc.) to prevent release of any contaminates. All field tiles shall be removed before installation of liner.

16. Electrical Interference and Stray Voltage:

- A. No Utility Scale SEF shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for global positioning system correction systems, radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the current Utility Scale SEF owner/operator provides a replacement signal to the affected party that will restore reception to at least the level present before operation. No Utility Scale

SEF shall be installed in any location within the line of sight of an existing microwave communications link where operation of the Utility Scale SEF is likely to produce electromagnetic interference in the link's operation unless the Township determines that the interference is insignificant.

- B. The owner/operator shall be responsible for compensation to residents for property, including livestock, health or other damage by stray voltage caused by a Utility Scale SEF. The owner/operator shall demonstrate the Utility Scale SEF prohibits stray voltage, surge voltage and power from entering the ground.

D: Abandonment

Abandonment. Any Utility Scale SEF that is not used to produce energy for a period of six (6) consecutive months shall be deemed to be abandoned and shall be promptly dismantled and removed from the property in accordance with the decommissioning regulations of this ordinance, unless the applicant receives a written extension of that period from the Township Board in a case involving an extended repair schedule for good cause.

E: Ancillary Solar Equipment

All mechanical equipment associated with and necessary for the operation of the Utility Scale SEF shall comply with the following:

- a. Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. At least fifty percent (50%) of plants must be evergreen. In lieu of a planting screen, a decorative fence meeting the requirements of Section 4.12 and that is at least fifty percent (50%) opaque may be used.
- b. Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
- c. Mechanical equipment for ground-mounted facilities shall comply with the setbacks specified for principal structures in the underlying zoning district.

F: Application Requirements

The following items must accompany any request for a special land use permit for a SEF.

- A. Special land use permit application and appropriate fee must accompany the site plan.
- B. Site plan
 - a. 6 copies of a site plan which conforms to the standards of this ordinance shall be forwarded to the Garfield township planning

commission and shall identify or depict all of the following:

- i. Setbacks, designated panel area, location of property lines, buildings and road right of ways.
- ii. Existing structures on the subject property and properties within a quarter mile of the property.
- iii. All existing and proposed underground and above ground utilities, servicing the subject parcel whether on or off site, including all collector and distribution cables whether above or belowground.
- iv. All rights of way, wetlands, wooded areas and public conservation lands, on the subject property and within one quarter mile of the subject property.
- v. Ingress and egress from the site as proposed during construction and thereafter, indicating: proposed road surface and cover, dust control, width and length of access route, and road maintenance progress or schedule for proposed land.
- vi. It is preferred that any related special land use permit applications for substations or new transmission lines be considered in conjunction with the special land use permit application for the Utility Scale SEF; however, if the details of those improvements are not available at the time of application for the Utility Scale SEF, they may be considered later, through subsequent special land use permit review. At a minimum, the intended route for connecting to the power grid and the alternative locations of any substation shall be disclosed with the application for the Utility Scale SEF.
- vii. The Planning Commission and/or Township Board shall have the authority to hire a third-party plan reviewer to verify completeness of the application, provide plan review comments to the applicant, and provide a report to the Planning Commission on whether the application complies with Section 7.03.A.2.a and whether the application included documentation that addresses the standards set forth in Section 7.03.A.4 and Section 16.06. Applicant shall pay into its escrow with the Township all fees and costs incurred by the third-party plan reviewer in connection with its plan review.
- viii. Utility Scale SEF DESCRIPTION. The application for the Utility Scale SEF shall identify the Utility Scale SEF buildings and accessory structures, the time period to construct the Utility Scale SEF, the phasing of construction, if any, and the

anticipated useful life of the Utility Scale SEF.

- b. If a variance is required, the applicant shall apply for such variance from the zoning board of appeals prior to consideration of the special land use permit application.
- C. After initial departmental site plan review, ten copies of the site plan in 18" x 24" format must be provided for the planning commission public hearing along with the following:
- a. Product description: A description of the proposed technology to include type of solar panel and system, fixed mounted versus solar tracking, number and size of each panel, angles of orientation, and other related information. Solar panels shall be minimal seventy-five (75) percent US sourcing. Initial installation shall use the same manufacturer.
 - b. Owner agreement: 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.
 - c. Proof of agreement or application to purchase electricity: A copy of the application and power purchase agreement or other written agreement with the utility company that will be purchasing electricity from the proposed site.
 - d. Documents to provide proof of easement with adjacent property owners: Evidence of covenants, easements or similar documentation with abutting property owners to allow the crossing of their property with any part of the solar energy system, to include but not limited to output lines.
 - e. Proof of appropriate required battery storage: If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all county, state, and federal requirements regulating battery storage have been met.
 - f. Drainage disposal plan: Plan for drainage disposal and erosion control approved by the Bay County soil erosion department.
 - g. Airport notification proof: Proof of delivery of notification and date of delivery to all affected airports, of location and product glare test results or proof of non-applicability.
 - h. Airport location map: A map analysis showing a radius of five (5) nautical miles from the center of the SEF with any airport operations within this area highlighted.
 - i. ENVIRONMENTAL SITING CONSIDERATIONS. The applicant shall provide evidence of compliance with applicable State of Michigan

statutes including, but not limited to: Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and such other applicable laws and rules in force at the time the application is considered by the Township Board. The applicant shall have a third party qualified professional, approved by the planning commission to conduct an analysis to identify and assess any potential impacts on the natural environment including wetlands and other fragile ecosystems, wildlife, including native and migrating birds of all species, and endangered species, historical or cultural sites and antiquities, and adjacent agricultural uses such as rotating crops. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any effects or concerns that will remain after mitigation efforts. In addition, a water usage or impact study shall be completed that will indicate any impact that the Utility Scale SEF will have on township water resources.

- j. Operation and Maintenance plan: A plan for the operation and maintenance of the utility scale system, which shall include measures for maintaining safe access to the installation, storm water controls, drain tiles, as well as general procedures of operational maintenance of the installation.
- k. Emergency Plan: The owner/operator of the solar energy facility shall cooperate with local emergency services in developing an emergency response plan to be submitted with the application. All means of shutting down the solar energy system shall be clearly marked. This emergency plan must include all highly volatile materials, for example: lithium batteries. The owner/operator shall identify a responsible person for public inquiries throughout the life of the installation. An information sign shall be posted and maintained at the entrances which lists the name and phone number of the operator. This emergency plan shall be updated yearly with the township and township fire department. This includes training to be provided to the township annually at the owner/operator's expense.
- l. Township approved facility supplied environmental supervisor provided during installation at the cost of the owner/operator.

m. Security Bond & Escrow & Letter of Irrevocable Credit:

- i. The owner(s) and/or operator of the SEF shall post a security bond or escrow or letter of irrevocable credit in a form acceptable to the Township equal to one hundred twenty-five (125) percent of the total estimated decommissioning and reclamation costs. The cost of decommissioning shall be reviewed between the operator and the Township Board every two (2) years to ensure adequate funds are allocated for decommissioning; the security bond or escrow or letter of irrevocable credit, defined herein, shall be appropriately adjusted to reflect the current decommissioning estimate. This security bond or escrow or letter of irrevocable credit shall be issued by a 3rd party and paid by the operator,
 - ii. The security bond or escrow or letter of irrevocable credit shall be posted and maintained with a bonding or escrow, or letter of an irrevocable credit company licensed in the State of Michigan or a Federal- or State-chartered lending institution acceptable to the Township.
 - iii. Any bonding company or lending institution shall provide the Township with 90 days' notice of the expiration of the security bond or escrow or letter of irrevocable credit. Lapse of a valid security bond or escrow or letter of irrevocable credit is grounds for the actions defined in subpart (v), below.
 - iv. In the event of sale or transfer of ownership and/or operation of the SEF, the security bond or escrow or letter of irrevocable credit shall be maintained throughout the entirety of the process.
 - v. If at any time during the operation of the SEF or prior to, during, or after the sale or transfer of ownership and/or operation of the SEF the security bond or escrow or letter of irrevocable credit is not maintained, the Township may take any action permitted by law, revoke the special land use, order a cessation of operations, and order removal of the structure and reclamation of the site.
- n. Transfer or sale:
- i. In the event of a transfer or sale of the SEF, the Township shall be notified and the special land use permit, without a public hearing, may be amended administratively by the Township Board to document the transfer or sale. Change in ownership alone shall be considered a minor amendment to the special land use permit and may be approved

- administratively.
- ii. Any proposed changes to the operating procedure or approved site plan constitute an amendment to the special land use permit and must be resubmitted to the Township review according to the procedures for all SEF as outlined herein, including a public hearing.
 - iii. Upon transfer or sale, the security bond or escrow or letter of irrevocable credit shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond or escrow or letter of irrevocable credit adjusted as necessary to account for the new estimate.
- o. Water acquisition, reclamation and disposal plan: The applicant for a utility scale solar energy system must provide a plan for the acquisition, reclamation and disposal of any water at the SEF site, used in the operation of this system. The reclamation plan shall provide for an escrow account of two and one half (2.5) times the price to bring city water to township homes in the event ground water becomes contaminated as a result of the SEF.
- p. Complete decommissioning plan: The decommissioning plan shall have the following information provided for removal within 9 months.
- i. The applicant shall engage a certified professional engineer acceptable to the Township to estimate the total cost of decommissioning the structure in accordance with the requirements of this ordinance, including reclamation to the original site conditions. The cost of decommissioning shall be reviewed between the operator and the Township Board every two (2) years to ensure adequate funds are allocated for decommissioning; the security bond or escrow or letter of irrevocable credit, defined herein, shall be appropriately adjusted to reflect the then current decommissioning estimate.
 - ii. All above and below ground materials shall be removed when the SEF is decommissioned.
 - iii. The ground shall be restored to its original condition within 60 days of removal of the structures. Acceptable ground covers include grasses, trees, crops, or other material demonstrated to be characteristic of the surrounding land.
 - iv. In the event that the SEF owner or operator fails to comply with the decommissioning requirements of this Ordinance,

the Township may, upon thirty (30) days written notice to the SEF owner and/or operator, utilize the security bond or escrow or letter of irrevocable credit referenced in Section this Ordinance to complete the decommissioning process.

- v. Hazardous material properly removed from the property and disposed of in accordance with federal, state, and local laws.
- q. HAZARDOUS WASTE. As applicable, the application must include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes through normal or accidental release shall not enter the waste stream. MSDS are required for any onsite chemicals, or chemical containing materials. Testing requirements prior to and annually after at one (1) acre grid.
- r. TRANSPORTATION PLAN FOR CONSTRUCTION AND OPERATION PHASES. Prior to the commencement of construction of the Utility Scale SEF, an agreement with the County Road Commission, and the Michigan Department of Transportation (if applicable) regarding any construction phase of the project is required.
- s. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility Scale SEF.
- t. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility Scale SEF.
- u. Other required documents: Any other relevant studies, reports, certificates and approvals as may be reasonably required by Garfield township.

All required county, state, and federal permits must be obtained before the Utility Scale SEF begins operating.

No new Utility Scale SEF shall be constructed until the site plan has been approved by the Garfield township planning commission and a special land use permit has been issued.

G: Liability Insurance

The owner or operator of the Utility Scale SEF shall maintain a current general liability policy covering bodily injury and property damage and name Garfield Township as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than five thousand dollars (\$5,000). This policy must cover natural disasters and acts of God.

Proof of current policy coverage must be provided to the township annually.

H: Inspections

The Township may inspect a Utility Scale SEF after providing 24 hours advance notice to the applicant or operator.

I: Enforcement and Penalties

Any person, firm or corporation violating any of the provisions of the ordinance shall be subject to the following penalties:

- A. Violations of this ordinance shall be a misdemeanor punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period not to exceed 90 days, or by both fine and imprisonment. Each day the violation exists shall constitute a separate offense. In addition to the forgoing penalties, anyone convicted of violating this ordinance under this provision shall be assessed the cost of prosecuting, including attorney fees, incurred by the township.
- B. This ordinance shall be enforced by such person or persons as may be designated by the Garfield township board of trustees.
- C. The township shall have the right to petition the Bay County circuit court for an injunction prohibiting the continuing violation of this ordinance. Anyone found to be in violation of this ordinance and enjoined by said court will be assessed the cost and attorney fees incurred by the township in seeking said injunction.

If an applicant or operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

Section 4: Amendment to Sections 2.05(C)

Section 2.05(C) of the Township's Zoning Ordinance is amended to add Utility Scale SEF's as a use permitted by special land use in the Agricultural/Rural Residential Zoning District.

Section 5: Validity and Severability

If any clause, Sentence, Paragraph, or part of this ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance but shall be confined in its

opinion to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

Section 6: Repealer Clause

Any ordinances, resolutions, or parts of ordinances or resolutions, in conflict herewith including Section 3.20 of the Zoning Ordinance, are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 7: Effective Date

This ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation as provided by law.

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