CHARTER TOWNSHIP OF GENESEE GENESEE COUNTY, MICHIGAN

**ORDINANCE NO. 580**

AN ORDINANCE AMENDING THE GENESEE TOWNSHIP ZONING ORDINANCE THE ADDITION OF AN ORDINANCE TO PERMIT AND REGULATE SOLAR ENERGY SYSTEMS WITHIN THE TOWNSHIP AND PROVDE FOR PENALTY OF SAME

**THE CHARTER TOWNSHIP OF GENESEE ORDAINS:**

**SECTION 1 - INTRODUCTION, TITLE, AND PURPOSE**

This Ordinance shall be known and may be cited as Genesee Township Ordinance Number 580, The Solar Energy Ordinance. The Township, as allowed by law, hereby declares by this ordinance, that it is purpose and intent of this ordinance to preserve the peace, welfare, order, health, and safety, of persons and property in the Charter Township of Genesee, and to prescribe various penalties for the violation of the provisions of this ordinance and to repeal any ordinances or parts of ordinances in conflict therewith.

**SECTION 2 - DEFINITIONS**

ACCESSORY SOLAR ENERGY SYSTEM: An area ofland or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one **(1)** or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

BROWNFIELD PROPERTY: land in an area for redevelopment or reuse that's complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

GLARE: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

PRINCIPAL SOLAR ENERGY SYSTEM: An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar

energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

SOLAR EASEMENT: A solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY: Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR PANEL: That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLAR RELATED EQUIPMENT: Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

1. SOLAR ARRAY: A grouping of multiple solar modules with purpose of harvesting solar energy.
2. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed to light.
3. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.

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# SECTION 3 - ACCESSORY SOLAR ENERGY SYSTEMS (ASES)

1. Regulations Applicable to All Accessory Solar Energy Systems:
	1. ASES that have a maximum power rating of not more than 15kW shall be permitted as a use by right in all zoning districts. ASES that have a power rating more than 15kW shall comply with the requirements of Section 4 - Principal Solar Energy Systems.
	2. Exemptions
		1. ASES with an aggregate collection and/or focusing area of 25 square feet or less are exempt from this ordinance.
		2. ASES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing ASES whether or not existing prior to the effective date of this Section that materially alters the ASES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.
	3. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the MI Uniform Construction Code as enforced by the Township, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards of the Township codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by the Township in accordance with applicable ordinances.

* 1. Accessory Solar Energy Systems must be installed in accordance with and obtain all necessary permits from the US Government, State of Michigan, and Genesee Township, and comply with standards of the State of Michigan adopted codes.
	2. All on-site utility, transmission lines and plumbing shall be placed underground to the extent feasible.
	3. The owner of an ASES shall provide the Township written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.
	4. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.
	5. Glare
		1. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
		2. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
	6. Prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
	7. Decommissioning
		1. Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.
		2. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.
		3. The ASES owner shall, at the request of the township, provide information concerning the amount of energy generated by the ASES in the last 12 months.
	8. Permit Requirements
		1. Zoning /building permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.
		2. The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.
		3. The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning/Code Enforcement Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.
1. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:
	1. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
	2. The total height of a building with an ASES shall not exceed by more than 1 foot above the maximum building height specified for principal or accessory buildings within the applicable zoning district.
	3. Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
	4. Solar panels shall not extend beyond any portion of the roof edge.
	5. Roof mounted solar panels may be located on front-facing roofs as viewed from any adjacent street when approved as a conditional use. The applicant shall demonstrate that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
	6. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the applicable Michigan Construction/Building Codes and adopted building code of the township that the roof or wall is capable of holding the load imposed on the structure.
2. Ground Mounted Accessory Solar Energy Systems:
	1. Setbacks
		1. The minimum yard setbacks from side and rear property lines shall be equivalent to the principal structure setback in the zoning district.
		2. Ground mounted ASES are prohibited in front yards, between the principal building and any road right of way.
	2. Height
		1. Ground mounted ASES shall not exceed 9 feet in height above the ground elevation surrounding the systems.
	3. Coverage
		1. The total surface area of the arrays of ground mounted ASES on the property shall not exceed more than 200 sq ft per acre.
		2. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations.
	4. Screening - Ground mounted ASES shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence meeting requirements of the zoning ordinance may be used.
	5. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.
	6. Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

# SECTION 4 - PRINCIPAL SOLAR ENERGY SYSTEMS (PSES)

1. Regulations Applicable to All Principal Solar Energy Systems:
	1. PSES shall be permitted only as follows:
		1. PSES shall be permitted by special exception with Planning Commission Review in Township areas qualifying as Brownfield properties.
		2. In non-Brownfield designated properties, Applicant shall submit application provided by Township to the Township Zoning Administration for consideration by the Township Board.

The Township Board shall review the application according to the criteria set forth in the Genesee Township Zoning Ordinance, Article XVII, Section 1704, Special Exception Use Permits.

* 1. Exemptions

PSES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSES, whether or not existing prior to the effective date of this Section that materially alters the PSES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

* 1. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), ), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with all applicable State building and construction codes and as enforced by the Township and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
	2. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.
	3. The owner of a PSES shall provide the Township written confirmation that the public

utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

* 1. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations.
	2. Glare
		1. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
		2. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
	3. No trees orother landscaping otherwise required by the municipal ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.
	4. The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.
	5. Decommissioning
		1. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures, foundations, electrical equipment and internal or perimeter access roads, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.
		2. The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation.
		3. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. If the owner fails to dismantle and/or remove the PSES within the established timeframes, the municipality may complete the decommissioning at the owner's expense.
		4. At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form a bond in favor of the Township equal to 125 percent of the costs to meet the decommissioning plan.
	6. Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) theright to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(b) the right to prohibit the development on or growth of any trees or vegetation on such property.

* 1. Permit Requirements
		1. PSES shall comply with the Township subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.
		2. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.
1. Ground Mounted Principal Solar Energy Systems:
	1. Minimum lot size shall be 10 acres
	2. Setbacks shall be 100 feet from all property lines and road rights-of-way.
	3. Ground mounted PSES shall not exceed 12 feet in height.
	4. Impervious Coverage
		1. The area beneath the ground mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable Zoning District.
		2. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with all state, local, and federal stormwater management regulations.
		3. PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.
	5. Ground mounted PSES shall be screened from adjoining residential uses or zones according to the standards found in this ordinance.
	6. Ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.
	7. Security
		1. All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
		2. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the PSES informing individuals of potential voltage hazards.
	8. Access
		1. At a minimum, a 25' wide access road must be provided from a state or township roadway into the site.
		2. At a minimum, a 20' wide cartway shall be provided between the solar arrays to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.
	9. The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
	10. If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

**SECTION 5- VIOLATIONS & PENALTY**

1. Violations - Use of land, buildings, and structures in violation of any provision of this Ordinance are hereby declared to be a nuisance per se.
2. Penalties - Any person, corporation, or firm who violates, disobeys, omits, neglects or refuses to comply with any provisions of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Township Code Official, Building Official, Zoning Administrator, Zoning Board of Appeals, Planning Commission or Township Board issued in pursuance of this Ordinance shall be guilty of a misdemeanor punishable by up to

$500 and/or 90 days in jail. Each day during which a violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance. The forgoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

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**SECTION 6 - SEVERABILITY**

The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

**SECTION** 7 - **CONFLICTING LAWS**

If any term of this ordinance conflicts with any previous ordinance, this ordinance shall prevail. Unless otherwise provided for herein, any section of any previous ordinance shall remain in full force and effect.

**SECTION 8 - EFFECTIVE DATE**

This ordinance shall become effective on the 30th day following publication.

We hereby certify that the foregoing Ordinance was adopted on the Second Reading by the Township Board of the Charter Township of Genesee at its meeting on January 9, 2019.

First Reading: December 27, 2018

Second Reading: January 9, 2019 Published on: - - - - - - - -

, 2019

Steven Fuhr, Supervisor

Wayne G. Bates, Clerk

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