

Vergennes Township
Kent County, Michigan

Ordinance # 2019-03
Adopted Date: 6-17-19

AN ORDINANCE TO AMEND THE VERGENNES TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 201.202 TO ADD NEW DEFINITIONS RELATED TO SOLAR ENERGY SYSTEMS; TO AMEND SECTION 201.304, C AND SECTION 201.309 C TO ADD REGULATIONS FOR UTILITY SCALE SOLAR ENERGY SYSTEMS; TO AMEND CHAPTER 4 SECTION 201.442 TO ADD REGULATIONS FOR SMALL-SCALE SOLAR ENERGY SYSTEMS BY ADDRESSING SOLAR ENERGY REGULATIONS, AND TO ESTABLISH AN EFFECTIVE DATE.

VERGENNES TOWNSHIP HEREBY ORDAINS:

Section 1. Amendment of Definitions Section 201.202.

Section 2.02 of the Vergennes Township Zoning Ordinance is amended to include the following definitions, which are inserted in alphabetical order:

Solar Energy Collector: A system (including solar collector surfaces and ancillary solar 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 Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems.

Ancillary Solar Equipment: Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters, or water heater tanks.

Property Owner or Lessor: Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.

Solar Collector Surface: Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

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

Building-Mounted Solar Energy Collector: A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall, or other element in whole or in part of a building. Also includes building-integrated photovoltaic systems (BIPV).

Ground-Mounted Solar Energy Collector: A solar energy collector that is not attached to and is separate from any building on the lot on which the solar energy collector is located.

Small-Scale Solar Energy Collector: A solar energy collector primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic (BIPV) systems, flush-mounted solar panels, ground-mounted solar energy collectors, or building-mounted solar energy collectors.

Utility Scale Solar Energy System: A solar energy system that meets one or more of the following:

- A. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
- B. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
- C. It is not considered an accessory use or structure by the Township Zoning Administrator.

Section 2. Amendment of Rural Agriculture Section 201.304.

Section 201.304, C is amended to include a new subsection 20, which reads as follows:

20. Utility Scale Solar Energy Systems, subject to the following:

1. Site Plan Required. An application for special land use approval for a Utility Scale Solar Energy System shall include a site plan in accordance with Article 201.502,D. In addition to the information required for site plan approval in Section 201.502,D,1, all applications must also include the following:
 - a. Equipment and unit renderings
 - b. Elevation drawings
 - c. Setbacks from property lines and adjacent structures, and height of proposed structures
 - d. Notarized written permission from the property owner authorizing the Utility Scale Solar Energy System
 - e. All additional plans and requirements set forth in this Section.
2. Permits. No utility-scale solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining a zoning permit, building permit, and all other applicable permits. The construction, installation, operation, maintenance, or modification of all utility-scale solar systems shall be consistent with all applicable local, state, and federal requirements, and all buildings and structures that

comprise a utility scale solar energy system shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications. Installation of the utility-scale solar energy system shall not commence until all necessary permits have been issued.

3. Lot Area. Utility scale solar energy systems shall be located on a lot of at least twenty (20) acres.
4. Setbacks. Utility scale solar energy systems shall be located at least 75 feet from all property lines or rights of way. The Township may modify the setbacks if it is determined that an alternate setback distance would protect adjacent residents and property owners. Screening methods may be permitted within the setbacks.
5. Height. Utility scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the natural grade below the unit to the highest point at full tilt.
6. Noise. Noise emanating from the solar energy collector system shall not exceed 50 decibels (dBA) as measured from any property line. The Township may reduce this maximum noise level in order to protect adjacent residents and property owners.
7. Screening. The Planning Commission may require that a utility scale solar energy system be screened from residential properties or public rights-of-way. Screening methods may include the use of material, colors, textures, screening walls, fencing, berms, landscaping, and/or natural vegetation that will blend the facility into the natural setting and existing environment.
8. Glare and Reflection. The exterior surfaces and structural components of utility scale solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A solar collector surface shall not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
9. Location. Solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties while remaining functional.
10. Obstruction. Solar energy systems shall not obstruct solar access to adjacent and neighboring properties.
11. Power lines. On site power lines between all structures and ancillary equipment and inverters shall be placed underground.
12. Fencing. For the purpose of restricting unauthorized access to the site, the Planning Commission may require that the perimeter of a utility scale solar energy system be fenced in with at least a six (6) foot high fence.
13. Operation and Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the utility scale solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
14. Emergency Services. Upon request by Vergennes Township, the owner/operator of the utility scale solar energy system shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. 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 entrance(s) which lists the name and phone number of the operator.

15. Maintenance. The utility scale solar energy system owner/operator shall maintain the facility in good condition at all times. Maintenance shall include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel. The owner/operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s).

16. Decommissioning.

- a. Any utility-scale solar energy system which has reached the end of its useful life or has not operated continuously for one year or more shall be removed and the owner/operator shall be required to restore the site. The owner/operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.
- b. The owner/operator shall notify the Township personally or by certified mail of the proposed date of discontinued operations and plans for removal.
- c. If the owner/operator fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Township may enter the property and physically remove the installation.
- d. Removal of the installation shall consist of the following:
 - 1) Physical removal of all aboveground or underground utility-scale solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - 2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - 3) Stabilization or re-vegetation of the site as necessary to minimize erosion.

17. Financial Guarantee. The applicant for a utility scale solar energy system shall provide a form of surety, either through escrow account, letter of credit, bond, or other instrument acceptable to the Township Attorney. The purpose of the surety is to cover the cost of removal of the utility scale solar energy system in the event the Township must remove the installation. The amount of the financial surety shall not exceed more than 125 percent of all costs of removal and compliance with the additional requirements set forth herein. It shall be submitted by the applicant and be prepared by a qualified engineer. The surety shall be subject to review and approval by the Township Board and shall be a condition of special exception use approval.

Section 3. Amendment of Industrial Section 201.309.

Section 201.309, C is amended to include a new subsection 8, which reads as follows:

8. Utility scale solar energy systems, subject to the requirements of section 201.304(C)(20).

Section 4. Amendment of Chapter 4.

Chapter 4 of the Vergennes Township Zoning Ordinance is amended to add a new section 201.442, which reads as follows:

201.442 Small-Scale Solar Energy Systems

4.42.

Applicability. This section applies to any system of small-scale solar energy collector systems. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground, nor does this section apply to utility-scale solar energy collector systems, which are regulated in Section 201.304(C). Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.

A. General requirements.

1. Permit Required. No small-scale solar energy collector system shall be installed or operated except in compliance with this section. A zoning permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system. All small-scale solar energy systems shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications.
2. Applications. In addition to all other required application contents as listed in Section 201.602(C) equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.
3. Glare and Reflection. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads or private roads.
4. Installation.
 - a. A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable Township and State requirements.
 - b. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
5. Power Lines. On-site power lines between solar panels and inverters shall be placed underground.
6. Abandonment and Removal. A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned.

Following the abandonment of a solar energy collector system, the following standards are applicable:

- a. The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Township is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
 - b. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
- B. Building-Mounted Solar Energy Collectors. These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.
1. Maximum Height. Building-mounted solar energy collectors shall be attached directly to the building and shall not be taller than the peak of the building to which they are attached.
 2. Obstruction. Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
- C. Ground-Mounted Solar Energy Collectors. These systems are permitted in all zoning districts subject to the following conditions.
1. Rear and Side Yards. The unit may be located in the rear yard or the side yard but shall be subject to the setbacks for principal buildings.
 2. Front Yard. The unit may be located in the front yard only if located not less than one hundred fifty (150) feet from the front lot line.
 3. Obstruction. Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
 4. Vegetation. All vegetation underneath solar energy infrastructure shall be properly maintained as to not block access to solar collectors.
 5. Maximum Number.
 - a. Residential uses. There shall be no more than one (1) ground-mounted solar energy collector per principal building on a lot.
 - b. Agricultural, Commercial, and Industrial uses. There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
 6. Maximum Size.
 - a. Residential uses. There shall be no more than one percent (1%) of the lot area, up to two thousand (2,000) square feet, of collector panels on a ground-mounted solar energy collector system.
 - b. Agricultural, Commercial, and Industrial uses. There shall be no more than ten thousand (10,000) square feet of collector panels on a ground-mounted solar energy collector system unless a Utility Scale Solar Energy Systems is approved pursuant to Section 201.304,C,20.

7. Maximum Height.
 - a. Residential uses. The maximum height shall be ten (10) feet, measured from the natural grade below the unit to the highest point at full tilt.
 - b. Agricultural, Commercial, and Industrial uses. The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.
8. Minimum Lot Area. Two (2) acres shall be the minimum lot area to establish a ground-mounted solar energy collector system.
9. Screening. Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.
10. Applicants requesting ground-mounted solar energy collectors shall demonstrate the system's projected electricity generation capability, and the system shall not regularly exceed the power consumption demand of the principal and accessory land uses on the lot. However, larger systems may be approved if greater electricity need is demonstrated to power on-site buildings and uses.

Section 5. Conflicts.

- A. If any provision of the Vergennes Township Ordinance conflicts with this amendment to the Zoning Ordinance, the terms of this amendment shall prevail.
- B. To the extent any provision of this ordinance may be preempted by state or federal law, then any such provision shall be enforced up to the fullest extent of any state or federal law before such preemption would occur.

Section 6. Miscellaneous, Severability.

- A. Should any section or part of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts of this Ordinance.
- B. Those terms and phrases used in this Section 201.432 which are also similarly used in MCL 125.3514, as amended, shall have the same meaning as set forth in MCL 125.3514.

Section 7. Effective Date. This Ordinance shall become effective seven (7) days after its publication, or a summary thereof, in a newspaper of general circulation in the Township.

VERGENNES TOWNSHIP

Dated: _____

By: _____
Timothy Wittenbach, Supervisor

Dated: _____

By: _____
Heather Hoffman, Clerk

Date Published: June 26, 2019

Date Effective: July 3, 2019