

CHARTER TOWNSHIP OF COOPER

NOTICE OF POSTING OF PROPOSED ORDINANCE:

**AN ORDINANCE TO ADOPT AMENDMENTS TO THE TOWNSHIP ZONING
ORDINANCE INCLUDING THE ADDITION OF REGULATIONS REGARDING
SOLAR ENERGY SYSTEMS**

PLEASE TAKE NOTICE that at its regular meeting on October 9, 2017, the Township Board received a proposed “Ordinance to Adopt Amendments to the Township Zoning Ordinance Including the Addition of Regulations Regarding Solar Energy Systems.” The Ordinance would amend several of the Township’s Zoning Ordinance sections regarding permitted and special uses in certain zoning districts, site plan review, nonconforming uses, and would provide for Solar Energy Systems in the Township.

The proposed Ordinance will be considered for adoption on November 13, 2017, at 7:00 p.m., at the Township Board meeting at the Township Hall at 1590 West D Avenue, Kalamazoo, Michigan. The proposed Ordinance is available in its entirety for public inspection. The proposed Ordinance is posted at the office of the Township Clerk, 1590 West D Avenue, Kalamazoo, Michigan, and is posted on the website of the Charter Township of Cooper, <http://www.coopertwp.org>.

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COOPER CHARTER TOWNSHIP

ORDINANCE NO. 245

**AN ORDINANCE TO ADOPT AMENDMENTS TO THE TOWNSHIP ZONING
ORDINANCE INCLUDING THE ADDITION OF REGULATIONS REGARDING
SOLAR ENERGY SYSTEMS**

The Charter Township of Cooper ordains:

SECTION 1. ADD DEFINITIONS TO SECTION 120.014.

The following definitions are hereby added to Section 120.014 of the Zoning Ordinance:

BUILDING INTEGRATED PHOTOVOLTAICS (BIPVs): A Private or Commercial Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

SOLAR ENERGY SYSTEM: Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including but not limited to the collection and transfer of heat created by solar energy to any other medium by any means.

PRIVATE SOLAR ENERGY SYSTEM: A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

COMMERCIAL SOLAR ENERGY SYSTEM: A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

ROOF OR BUILDING MOUNTED SOLAR ENERGY SYSTEM: A Private or Commercial Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

GROUND MOUNTED SOLAR ENERGY SYSTEM: A Private or Commercial Solar Energy System that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.

SECTION 2. AMENDMENT OF SECTION 120.110.

Section 120.110 entitled “A Agricultural District” is hereby amended to implement the following changes:

- a. Section 120.110(B)(2) shall be amended to read in its entirety as follows:

Any farm or agricultural activities including greenhouses, stock nurseries, and the raising of livestock, subject to *the State of Michigan GAAMP’s (Generally Accepted Agricultural Management Practices)*.

- b. Section 120.110(B)(12) shall be removed from the list of permitted uses.

- c. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.110(B).
- d. Section 120.110(C)(10) shall be removed from the list of special exception uses.
- e. Add “*An accessory building(s) may be constructed without the establishment of a principal building on a lot, parcel or building site subject to the following conditions and limitations: (See Sec. 120.120.C.11)*” as a Special Exception Use in the district under subsection 120.110(C).

SECTION 3. AMENDMENT OF SECTION 120.120.

Section 120.120 entitled “R-1 Rural Residential District” is hereby amended to implement the following changes:

- a. Sections 120.120(B)(5) and (6) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.120(B).
- c. Sections 120.120(C)(8) and (9) shall be removed from the list of special exception uses.

SECTION 4. AMENDMENT OF SECTION 120.130.

Section 120.130 entitled “R-2 Residence District – Single Family” is hereby amended to implement the following changes:

- a. Section 120.130(B)(4) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.130(B).

SECTION 5. AMENDMENT OF SECTION 120.140.

Section 120.140 entitled “R-3 Residence District – Single and Two Family” is hereby amended to implement the following changes:

- a. Section 120.140(B)(7) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.140(B).

SECTION 6. AMENDMENT OF SECTION 120.150.

Section 120.150 entitled “R-4 Residence District – Medium-Density Multi-Family” is hereby amended to implement the following changes:

- a. Section 120.150(B)(7) shall be removed from the list of permitted uses.

- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.150(B).

SECTION 7. AMENDMENT OF SECTION 120.160.

Section 120.160 entitled “R-5 Residential District – High-Density Multi-Family” is hereby amended to implement the following changes:

- a. Section 120.160(B)(5) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.160(B).

SECTION 8. AMENDMENT OF SECTION 120.170.

Section 120.170 entitled “R-6 Mobile Home Park District” is hereby amended to implement the following changes:

- a. Section 120.170(B)(1) shall be removed from the list of permitted uses.
- b. Section 120.170(B)(6) shall be amended to read as follows: “Dwellings have a minimum width of at least 12 feet, provided the same meet the conditions imposed for dwellings as contained in section *120.14* of this Ordinance.”
- c. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.170(B).

SECTION 9. AMENDMENT OF SECTION 120.180.

Section 120.180 entitled “RD Recreation District” is hereby amended to implement the following changes:

- a. Section 120.180(B)(1) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.180(B).

SECTION 10. AMENDMENT OF SECTION 120.190.

Section 120.190 entitled “CBD Cooper Business District” is hereby amended to implement the following changes:

- a. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.190(B).
- b. Section 120.190(C)(3) shall be removed from the list of special exception uses.

SECTION 11. AMENDMENT OF SECTION 120.200.

Section 120.200 entitled “C-1 Commercial District, Local” is hereby amended to implement the following changes:

- a. Sections 120.200(B)(1)(n) and (9) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.200(B).
- c. Section 120.200(C)(1) shall be removed from the list of special exception uses.
- d. Add “*Package Liquor Sales*” as a Special Exception Use in the district under subsection 120.200(C).

SECTION 12. AMENDMENT OF SECTION 120.210.

Section 120.210 entitled “C-2 Commercial District, General” is hereby amended to implement the following changes:

- a. Sections 120.210(B)(7) and (17) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.210(B).
- c. Section 120.210(C)(1) shall be removed from the list of special exception uses.

SECTION 13. AMENDMENT OF SECTION 120.220.

Section 120.220 entitled “C-3 Commercial District, Shopping Center” is hereby amended to implement the following changes:

- a. Section 120.220(B)(2) shall be removed from the list of permitted uses.
- b. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.220(B).

SECTION 14. AMENDMENT OF SECTION 120.230.

Section 120.230 entitled “I-1 Industrial District, Restricted” is hereby amended to implement the following changes:

- a. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.230(B).
- b. Sections 120.230(E)(3) and (9) shall be removed from the list of special exception uses.

SECTION 15. AMENDMENT OF SECTION 120.240.

Section 120.240 entitled “I-2 Industrial District, Manufacturing and Service” is hereby amended to implement the following changes:

- a. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.240(B).
- b. Section 120.240(D)(6) shall be removed from the list of special exception uses.
- c. Add “*Commercial Solar Energy Systems when in accordance with Section 120.470*” as a Special Exception Use in the district under subsection 120.240(D).

SECTION 16. AMENDMENT OF SECTION 120.250.

Section 120.250 entitled “I-3 Industrial District, Heavy” is hereby amended to implement the following changes:

- a. Add “*Private Solar Energy Systems when in accordance with Section 120.470*” as a Permitted Use in the district under subsection 120.250(B).
- b. Add “*Commercial Solar Energy Systems when in accordance with Section 120.470*” as a Special Exception Use in the district under subsection 120.250(D).

SECTION 17. AMENDMENT OF SECTION 120.330.

Section 120.330 entitled “Nonconforming Uses, Lots or Structures” is hereby amended to implement the following changes:

- a. Add a subsection (F) to read as follows:

“Agricultural uses that existed at the time of passage of this ordinance provision shall be deemed to be legal nonconforming uses that may be extended, added to or altered provided such uses are in compliance with the Michigan Right to Farm Act, Public Act 93 of 1981 (the “Act”), and any Generally Accepted Agricultural Management Practices adopted pursuant to the Act. The applicant must prove that such prior agricultural use was a “Farm” or “Farm operation” used in the commercial production of farm products.”

SECTION 18. AMENDMENT OF SECTION 120.360.

Section 120.360 entitled “Fencing and Swimming Pool” is hereby amended to implement the following changes:

- a. Section 120.360(A)(7) shall be amended to read as follows: “The *Planning Commission* shall have authority to waive the fence height limitations within the commercial or industrial districts if the *Planning Commission* determines, based upon the nature of the site, nature of the properties and streets adjoining the subject property and the nature of

the proposed use, that such a waiver will not have a material adverse impact upon persons or property in the surrounding area and will not otherwise be inconsistent with the purposes of this section.”

- b. Section 120.360(B)(5) shall be amended to read as follows: “For the purpose of determining suitable, alternative types of fences and gates, the *Planning Commission* is hereby given authority to grant variances so as to allow for suitable, alternative types of fencing and gates, provided that the alternative shall be reasonably equivalent to the type herein specified.”

SECTION 19. AMENDMENT OF SECTION 120.430.

Section 120.430 entitled “Site Plan Review” is hereby amended to implement the following changes:

- a. Section 120.430(B)(11) shall be amended to read as follows: “A change in use.”

SECTION 20. ADDITION OF SECTION 120.470 TO ZONING ORDINANCE ENTITLED “SOLAR ENERGY SYSTEMS”.

Section 120.470 entitled “SOLAR ENERGY SYSTEMS” is hereby added to the Township’s Zoning Ordinance. The section shall read in its entirety as follows:

Section 120.470. SOLAR ENERGY SYSTEMS.

A. GENERAL REQUIREMENTS. All Solar Energy Systems are subject to the following general requirements:

- 1. All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
- 2. Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

B. PRIVATE SOLAR ENERGY SYSTEMS.

1. Private Solar Energy System BIVPs. Private Solar Energy System BIVPs shall be permitted in all zoning districts, provided such BIVPs conform to applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code. A building permit shall be required for the installation of any BIVPs.

2. Roof or Building Mounted Private Solar Energy Systems. Roof or building mounted Private Solar Energy Systems shall be considered an accessory use 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 System is mounted on a building in an area other than the roof, no part of the Solar Energy System shall extend beyond the wall on which it is mounted.

- b) No part of a Solar Energy System mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley in order to maintain pathways of accessibility.
- c) No part of a Solar Energy System mounted on a roof shall extend more than two (2) feet above the surface of the roof.
- d) In the event that a roof or building mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.
- e) A building permit shall be required for installation of roof or building mounted Private Solar Energy Systems.

3. Ground Mounted Private Solar Energy Systems. Ground mounted Private Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:

- a) Prior to the installation of a ground mounted Solar Energy System, 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, greenbelts, and road right of ways. The site plan must be drawn to scale.
- b) A ground mounted Solar Energy System shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted Solar Energy System exceed fifteen (15) feet above the ground when oriented at maximum tilt.
- c) A ground mounted Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the Solar Energy System will be located.
- d) All power transmission or other lines, wires or conduits from a ground mounted Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Solar Energy System, they must be placed in a secured container or enclosure.
- e) There shall be greenbelt screening around any ground mounted Solar Energy Systems and equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence (meeting the requirements of this Ordinance applicable to fences) may be used.
- f) No more than 20% of the total lot area may be covered by a ground mounted Solar Energy System.
- g) In the event that a ground mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.
- h) A building permit shall be required for installation of a ground mounted Solar Energy System.

C. COMMERCIAL SOLAR ENERGY SYSTEMS. Commercial Solar Energy Systems shall only be allowed in the “I-2” or “I-3” Industrial Districts as a special use approved by the Planning Commission. In addition to any other requirements for special use approval,

Commercial Solar Energy Systems shall be ground mounted and are subject to the following requirements:

1. The property owner or applicant for a Commercial Solar Energy System shall provide the Planning Commission with proof of ownership of the subject property, a copy of any lease agreement for a commercial solar energy system, together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
2. Commercial Solar Energy Systems shall be located on parcels of land no less than twenty (20) acres in size.
3. The Commercial Solar Energy System shall meet the minimum front, side and rear yard setbacks of the zoning district.
4. The height of the Commercial Solar Energy System and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
5. Landscaping shall be provided to screen the system from view on all sides to the greatest extent possible.
6. Prior to installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the Commercial Solar Energy System will connect to the power grid.
7. No commercial solar energy system shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to an interconnection with the electrical grid or a power purchase agreement. Any such agreement shall be furnished to the Planning Commission.
8. To ensure proper removal of a Commercial Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Township within fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the applicant and shall be subject to approval by the Township.
9. If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Commercial Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.

SECTION 21. VALIDITY AND SEVERABILITY.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

SECTION 22. REPEALER.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

SECTION 23. EFFECTIVE DATE.

This Ordinance shall be published and take effect seven days after publication as provided by law.

Approved this _____ day of _____, 2017.

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