

BIRCH RUN TOWNSHIP
SAGINAW COUNTY, MICHIGAN
ORDINANCE NO. 2019-05
ZONING ORDINANCE AMENDMENT (Articles 9, 14 and 21)

ADOPTED: May 14, 2019
PUBLISHED: May 22, 2019
EFFECTIVE: May 29, 2019

An ordinance to amend the Birch Run Township Zoning Ordinance by amending Articles 9, 14 and 21 to permit solar panels and solar farms.

THE TOWNSHIP OF BIRCH RUN, SAGINAW COUNTY, MICHIGAN, ORDAINS:

ARTICLE I. Article 9 of the Birch Run Township Zoning Ordinance is hereby amended by adding the following:

Article 9 – Zoning Districts, Regulations and Map

Table 9.2 – PERMITTED PRINCIPAL USES in CONSERVATION and RESIDENTIAL DISTRICTS

| | Principal Uses | Zoning Districts & Permitted Principal Uses “BR” = Uses Permitted by Right “S” = Special Land Use “--” = Prohibited Use “A” = Specific Accessory Uses Permitted | | | | | |
|---|-----------------------------|--|-----|-----|-----|------|-------|
| | | A-1 | R-1 | R-2 | R-3 | R-MF | R-MHC |
| | Other Uses Not Listed Above | | | | | | |
| 5 | Solar Panels | A/S | A/S | A/S | A/S | A/S | A/S |
| 6 | Solar Farms | S | -- | -- | -- | -- | -- |

Table 9.3 PERMITTED PRINCIPAL USES in COMMERCIAL and INDUSTRIAL DISTRICTS

| | | C-1 | C-2 | I-1 |
|---|-----------------------------|-----|-----|-----|
| | Other Uses Not Listed Above | | | |
| 4 | Solar Panels | A/S | A/S | A/S |
| 5 | Solar Farms | -- | -- | S |

ARTICLE II. Article 15 of the Birch Run Township Zoning Ordinance is hereby amended by adding the following:

Amend Article 14 – Standards and Regulations for Specific Land Uses

Section 14.21 Solar panels.

The solar panels for private use may be permitted by right as an accessory use in all zoning districts provided it complies with the following requirements, however freestanding panels exceeding the requirements outline in subsection D below will require approval of a special land use.

A. Freestanding Panels

1. Freestanding solar panels shall not be located in the front or side yard;
2. All freestanding solar panels shall be regulated as an accessory structure and shall meet all applicable accessory building requirements of the ordinance;
3. No freestanding solar panel shall be permitted to exceed a height of fifteen (15) feet;

B. Roof or Structural Mounted Panels including solar shingles

1. Shall not project more than two (2) feet above the roof line. However, the solar panel when installed shall not exceed the maximum height allowed in the Zoning District. The use of flat mount solar panels or solar shingles are preferred;
2. May be constructed on any roof surface of an existing structure.
3. Shall not be located within three (3) feet of any peak, eave or valley to maintain adequate accessibility.

C. Requirements for All Panels

1. The solar panels, solar shingles and arrays of panels shall be reviewed by the Fire Department.
2. The panel array shall be fitted with an automatic shut off or breaker switch as approved by the Fire Department to isolate the panels in case of fire.
3. The Fire Department shall keep on file the type of system that the solar panel array is a part of, either photovoltaic or thermal.
4. All panels shall have tempered, non-reflective surfaces.
5. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
6. Solar energy equipment shall be repaired or replaced within three months of becoming nonfunctional.
7. Each system shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
8. Solar energy collectors and installation and uses shall comply with construction code, electrical code, and other state requirements.

D. Accessory Use Solar Panels Requiring Special Land Use Approval

1. Free standing solar panels used accessory to a non-agricultural use shall require special land use approval if they do not meet the setback or placement criteria of Section 20.20.B of this ordinance or exceed the square footage for accessory structures outlined in Section 20.20.D of this zoning ordinance.

2. Free standing solar panels used accessory to an agricultural use shall require special land use approval if they do not meet the setback or placement criteria of Section 20.20.B of this ordinance or exceed the square footage for accessory structures outlined in Section 20.20.D of this zoning ordinance, with the exception that on a parcel 4 acres or greater the maximum square footage allowed by right will be lesser of 2.9% of the lot or 6,000 square feet, including any other accessory buildings on the property.

Section 14.22 Solar Farms.

Solar farms shall be permissible in the A-1, and I-1 zoning districts subject to special use permit approval:

A. Solar Farms – Required additional Information

In addition to the information required for site plans outlined in Section 4.04 of this ordinance, applications for Solar Farms shall include the following:

1. Project Description and Rationale. Identify the type, size, rated power output, performance, safety and noise characteristics of the system including the transmission line/grid connection for the project. Identify the project construction time frame, project life, development phases (and potential future expansions) and likely markets for the generated energy.
2. Visual Impacts. Graphically demonstrate the visual impact of the project using photos or renderings of the project with consideration given to setbacks and proposed landscaping.
3. Environmental Analysis. Identify any impacts on water and air quality and supply for the area.
4. Waste. Identify any solid or hazardous waste generated by the project.
5. Lighting. Provide plans showing all lighting within the facility.
6. Transportation Plan. Provide a proposed access plan during construction and operational phases.
7. Show proposed project service road ingress and egress locations onto adjacent roadways and the layout of the facility service road system.
8. Public Safety. Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways and to the general public that may be created.
9. Sound Limitations. Identify noise levels at the property lines of the project when completed and operational.
10. Telecommunications Interference. Identify any electromagnetic fields and communications interference that may be generated by the project.
11. Decommissioning. Provide a Decommissioning Plan acceptable to the Planning Commission to ensure that structures and appurtenances are properly decommissioned upon the end of their operational life, inoperability or improvement abandonment.
 - a. A Decommissioning Plan shall be submitted for review and approval detailing the expected duration of the project, how the improvements will be decommissioned, a Professional Engineer’s estimated cost of

decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond holder with which the financial resources shall be deposited.

- b. The decommissioning plan shall also include an agreement between the applicant and the Township that includes, but is not limited to the following conditions:
 - 1) The financial resources for decommissioning shall be in the form of a surety bond with a replenishment obligation and shall be deposited by a bonding agent acceptable to Birch Run Township.
 - 2) The financial resources for decommissioning shall be 125% of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a Professional Engineer.
 - 3) The Planning Commission shall annually review the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the Township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.
 - 4) The Township shall have access to the surety bond funds for the expressed purpose of completing decommissioning. If decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of the solar farm or facility abandonment. Surety bond funds may be used for administrative fees and costs associated with decommissioning.
 - 5) The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - 6) The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the surety bond amount and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

B. Solar Farms – Design Requirements

The solar farms shall comply with the following requirements

1. Solar Panels. The solar panels used in a solar farm shall comply with the requirements in Section 14.21.C of this ordinance

2. Setbacks. All Photovoltaic (PV) systems and support structures associated with such facilities (excluding perimeter fencing) shall be setback a minimum of two hundred (200) feet from any habitable structure or one hundred (100) feet from a property line, whichever is greater.
3. Lighting. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels.
4. Buffering. Solar farms shall install landscaping as required by Section 17.04 of the zoning ordinance, provided the Planning Commission may require modifications to these requirements including the use of fencing or other screening and buffering techniques as determined necessary to adequately screen the solar farm from surrounding land uses.
5. Decommissioning
 - a. Any solar farm that is not operated or found to be inoperable due to disrepair for a continuous period of six (6) months shall be considered abandoned. If it is found that a solar farm is abandoned, the Planning Commission upon notice by the Zoning Administrator, shall provide written notice to the applicant/owner/operator of a hearing before the Planning Commission to hear evidence that the solar farm should not be decommissioned.
 - b. If a solar farm is repaired, a Professional Engineer (hired at the expense of the owner or operator) shall certify the solar farm's safety prior to the resumption of operation.
 - c. Within ninety (90) days of the hearing where the Planning Commission has determined that a solar farm is abandoned or inoperable, the owner/operator shall obtain a demolition permit to remove any solar farm.
 - d. Failure to obtain a demolition permit within the 90-day period provided in this subsection shall be grounds for the Township to remove the solar farm at the Owner's expense.
 - e. Decommissioning shall include removal of all equipment associated with the solar farm including all materials above and below ground, up to four (4) feet in depth. The site shall be restored to a condition that reflects the specific character of the site including topography, vegetation, soils, drainage, and any unique environmental features.
 - 1) The restoration shall include: road repair and hazardous waste cleanup, if any, all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the wind energy system.
 - 2) The restoration process shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one (1) year.
 - 3) Extensions may be granted upon request to the Planning Commission prior to that expiration of the one (1) year requirement for completed decommissioning.

- f. The decommissioning plan shall also include an agreement between the applicant and the Township that includes, but is not limited to the following conditions:
- 1) The financial resources for decommissioning shall be in the form of a surety bond with a replenishment obligation and shall be deposited by a bonding agent acceptable to the Township.
 - 2) The financial resources for decommissioning shall be 125% of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a Professional Engineer.
 - 3) The Planning Commission shall annually review the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the Township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.
 - 4) The Township shall have access to the surety bond funds for the expressed purpose of completing decommissioning. If decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of solar farm or facility abandonment. Surety bond funds may be used for administrative fees and costs associated with decommissioning.
 - 5) The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - 6) The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the surety bond amount and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien..

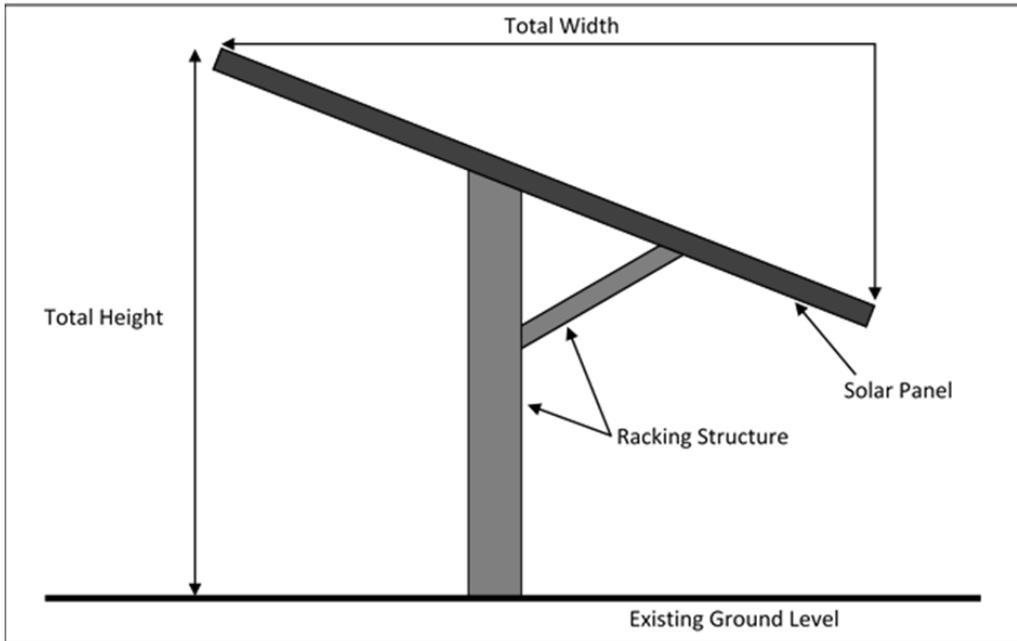
ARTICLE III. Article 21 of the Birch Run Township Zoning Ordinance is hereby amended by adding the following:

Article 21 Definitions

Solar panels – Structures that provide electrical power generation through the utilization of photovoltaic cells, typically building-integrated, non-mechanical semiconductor devices that convert sunlight into direct current electricity.

Solar farms – Facilities that consist of a group of solar panels used to generate electrical power for use off-site

Solar panel height – Distance from the base of the structure to the highest point of the solar panel.



ARTICLE IV. This ordinance and its various articles, paragraphs and clauses thereof are hereby declared to be severable. If any article, paragraph or clause is adjudged unconstitutional or invalid, the remainder of this amendatory ordinance shall not be affected thereby.

ARTICLE V. All ordinances and provisions of ordinances of the Birch Run Township in conflict herewith are hereby repealed.

ARTICLE VI. This amendatory ordinance shall be published as required by law and shall take effect 7 days after publication.

CERTIFICATION

The foregoing ordinance is hereby certified to be the authentic record of the ordinance which was duly adopted by the Township Board of the Township of Birch Run on the 14th day of May 2019, and published on the 22nd day of May 2019.

YEAS: Kiessler, Parlberg, Sheridan, Totten, Trinklein, Moore

NAYS: None

ABSENT: Letterman

STATE OF MICHIGAN)
) SS
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk of the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the foregoing is a true and complete Copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Birch Run, Michigan, held on the 14th day of May, 2019, the original of said meeting was given to and in compliance with Act 267, Public Acts of Michigan, 1976.

I further certify that on the 22nd day of May, 2019, I caused a notice of such adoption to be published in the Birch Run/Bridgeport Herald, a newspaper circulated in the Township of Birch Run, and that said Ordinance and the record of publication was duly recorded in the Book of Ordinances of the Township of Birch Run and is available for public use and inspection at the offices of the Birch Run Township Clerk.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 15th day of April, 2019.

Corey Trinklein, Clerk
Birch Run Township