ROME TOWNSHIP

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE SOLAR ENERGY SYSTEMS

Rome Township ordains:

Section 1. Add Definitions to Article 15

The following definitions are added to Article 15 of the Zoning Ordinance, and will be placed in the Zoning Ordinances so that all definitions are in alphabetical order:

A. Abandonment: A Solar Energy System is abandoned if it has not been in operation for a period of one (1) year. This includes a Solar Energy System that was never operational if construction has been halted for a period of one (1) year.

B. Affected Local Unit: a unit of local government in which all or part of a proposed energy facility will be located.

C. Aircraft detection lighting system: a sensor-based system designed to detect aircraft as they approach a wind energy facility and that automatically activates obstruction lights until they are no longer needed.

D. Applicant: an applicant for a Township permit.

E. Building Integrated Photovoltaics (BIPVs): A small Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

F. Certificate: a certificate issued for an energy facility by the Michigan Public Service Commission under MCL 460.1226(5).

G. Commercial Solar Energy System: A Solar Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

H. Compatible Renewable Energy Ordinance: an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in section MCL 460.1226(8). A local unit of government is considered not to have a compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction.

I. Construction: any substantial action taken constituting the placement, erection, expansion, or repowering of an energy facility.

J. Dark Sky-Friendly Lighting Technology: a light fixture that is designed to minimize the amount of light that escapes upward into the sky.

K. Energy Facility: an energy storage facility, solar energy facility, or wind energy facility. An energy facility may be located on more than 1 parcel of property, including noncontiguous parcels, but shares a single point of interconnection to the grid.

L. 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.

M. Independent Power Producer or IPP: a person that is not an electric provider but owns or operates facilities to generate electric power for sale to electric providers, this state, or local units of government.

N. Light Intensity Dimming Solution Technology: obstruction lighting that provides a means of tailoring the intensity level of lights according to surrounding visibility.

O. Light-Mitigating Technology System: an aircraft detection lighting system, a light intensity dimming solution technology, or a comparable solution that reduces the impact of nighttime lighting while maintaining night conspicuity sufficient to assist aircraft in identifying and avoiding collision with the wind energy facilities.

P. Local Unit of Government: a county, township, city, or village.

Q. Nameplate Capacity: the designed full-load sustained generating output of an energy facility. Nameplate capacity shall be determined by reference to the sustained output of an energy facility even if components of the energy facility are located on different parcels, whether contiguous or noncontiguous.

R. Nonparticipating Property: a property that is adjacent to an energy facility and that is not a participating property.

S. Occupied Community Building: a school, place of worship, day-care facility, public library, community center, or other similar building that the applicant knows or reasonably should know is used on a regular basis as a gathering place for community members.

T. Participating Property: real property that either is owned by an applicant or that is the subject of an agreement that provides for the payment by an applicant to a landowner of monetary compensation related to an energy facility regardless of whether any part of that energy facility is constructed on the property.

U. Person: an individual, governmental entity authorized by this state, political subdivision of this state, business, proprietorship, firm, partnership, limited partnership, limited liability partnership, co-partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, subchapter S corporation, limited liability company, committee, receiver, estate, trust, or any other legal entity or combination or group of persons acting jointly as a unit.

V. Private Solar Energy System: A Solar Energy System used exclusively for private purposes and not used for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

W. Repowering: with respect to an energy facility, means replacement of all or substantially all of the energy facility for the purpose of extending its life. Repowering does not include repairs related to the ongoing operations that do not increase the capacity or energy output of the energy facility.

X. Roof or Building Mounted Solar Energy System: A Private Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

Y. 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 the collection and transfer of heat created by solar energy to any other medium by any means.

Section 2. Add New Section 11.92, entitled "Solar Energy Systems"

Section 11.92, entitled "Solar Energy Systems," is added to the Township's Zoning Ordinance. The section reads in its entirety as follows:

Section 11.92. Solar Energy Systems.

A. General Provisions. All Solar Energy Systems are subject to the following requirements:

1. All Solar Energy Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI).

2. The Township may revoke any approvals for, and require the removal of, any Solar Energy System that does not comply with this Ordinance.

3. Solar Energy Systems must be located or placed so that concentrated solar glare is not directed toward or onto nearby properties or roadways at any time of the day.

4. Solar Energy Systems are permitted in the Township as follows, subject to this Section and other applicable provisions of the Zoning Ordinance:

Type of System	Sub-Type of System	Zoning District	Special Use Permit
Private Solar Energy System	Private BIPVs	All zoning districts	Not required
	Roof or Building Mounted Private Solar Energy System	All zoning districts as accessory use	Not required

	Ground Mounted Private Solar Energy Systems	All zoning districts	Required
Commercial Solar Energy System	All Commercial Solar Energy Systems (Ground Mounted only)	Renewalable Energy Overlay District	Required

* Commercial Solar Energy Systems are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program.

B. Private Solar Energy Systems.

1. Private Solar Energy System BIPVs. Private Solar Energy System BIPVs are permitted in all zoning districts. A building permit is required for the installation of BIPVs.

2. Roof or Building Mounted Private Solar Energy Systems. Roof or Building Mounted Private Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to the following requirements:

a. No part of the Solar Energy System erected on a roof is permitted to 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 is permitted to extend beyond the wall on which it is mounted.

b. No part of a Solar Energy System mounted on a roof is to be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley to maintain pathways of accessibility.

c. No part of a Solar Energy System mounted on a roof is permitted to extend more than two (2) feet above the surface of the roof.

d. If a Roof or Building Mounted Private Solar Energy System has been abandoned, the property owner must remove it within three (3) months after the date of abandonment.

e. A building permit is required for the installation of Roof or Building Mounted Private Solar Energy Systems.

3. Ground Mounted Private Solar Energy Systems. Ground Mounted Private Solar Energy Systems are allowed in any zoning district and require a special land use permit and site plan review. In addition to all requirements for a special land use permit and site plan review and approval , Ground Mounted Private Solar Energy Systems are also subject to the following requirements:

a. *Site Plan.* Before installation of a Ground Mounted Private Solar Energy System, the property owner must submit a site plan to the Zoning Administrator. The site plan must 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. *Maximum Height.* A Ground Mounted Private Solar Energy System must not exceed the maximum building height for adjacent accessory buildings and must not exceed fifteen (15) feet above the ground when oriented at maximum tilt.

c. *Location.* A Ground Mounted Private Solar Energy System must be located in the rear yard and meet the rear yard setback requirements applicable in the AG zoning district.

d. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Ground Mounted Private Solar Energy System to any building or other structure must be located underground. If batteries are used as part of the Ground Mounted Private Solar Energy System, they must be placed in a secured container or enclosure.

e. *Screening.* Greenbelt screening is required around any Ground Mounted Private Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque (meeting the requirements of this Ordinance applicable to fences) may be used if approved by the Planning Commission.

f. *Lot Area Coverage.* No more than 20% of the total lot area may be covered by a Ground Mounted Private Solar Energy System.

g. *Appearance.* The exterior surfaces of a Ground Mounted Private Solar Energy System must be generally neutral in color and substantially non-reflective of light.

h. *Abandonment.* If a Ground Mounted Private Solar Energy System has been abandoned, the property owner must notify the Township and remove the system within three (3) months after the date of abandonment.

i. *Building Permit.* A building permit is required for installation of a Ground Mounted Private Solar Energy System.

j. *Transferability.* A special use permit for a Ground Mounted Private Solar Energy System is transferable to a new owner. The new owner must register its name and business address with the Township and

must comply with this Ordinance and all approvals and conditions issued by the Township.

k. *Remedies.* If an applicant or operator of a Ground Mounted Solar Energy System 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 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.

C. Commercial Solar Energy Systems. Commercial Solar Energy Systems are allowed only in the Renewable Energy Overlay zoning district (except they are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program) and require a special land use permit and site plan review. In addition to all requirements for a special land use permit and site plan review and approval, Commercial Solar Energy Systems are also subject to the following requirements:

1. *Application Requirements.* The applicant for a Commercial Solar Energy System must provide the Township with all of the following:

a. Application fee in an amount set by resolution of the Township Board.

b. A list of all parcel numbers that will be used by the Commercial Social Energy System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.

c. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.

d. Current photographs of the subject property.

e. A site plan that includes all proposed structures and the location of all equipment, transformers, and substations, as well as all setbacks, panel sizes, and the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Commercial Solar Energy System will be connected to the power grid.

f. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Commercial Solar Energy System.

g. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.

h. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Commercial Solar Energy System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Commercial Solar Energy System and restore the subject parcels, which is subject to the Township's review and approval.

i. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.

j. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Commercial Solar Energy System, which is subject to the Township's review and approval.

k. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

l. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.

m. 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 Solar Energy System, which is subject to the Township's review and approval.

n. Proof of environmental compliance, including compliance with 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 any other applicable laws and rules in force at the time the application is considered by the Township

o. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

2. *System and Location Requirements.*

a. Commercial Solar Energy Systems must be ground mounted.

b. Commercial Solar Energy Systems must be located on parcels of land twenty (20) acres in size or larger.

c. Commercial Solar Energy Systems are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program.

d. Commercial Solar Energy Systems (including all solar panels, structures, and equipment) must be set back 500 feet from all lot lines and public road rights-of-way. If a single Commercial Solar Energy System is located on more than one lot, then the lot-line setbacks of this subsection do not apply to the lot lines shared by those lots.

e. The height of the Commercial Solar Energy System and any mounts, buildings, accessory structures, and related equipment must not exceed fifteen (15) feet when oriented at maximum tilt. Lightning rods may exceed 15 feet in height, but they must be limited to the height necessary to protect the Commercial Solar Energy System from lightning.

3. *Permits.* All required county, state, and federal permits must be obtained before the Commercial Solar Energy System begins operating.

4. *Screening.* Greenbelt screening is required around any Commercial Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. At least 50% of the plants must be evergreen trees that are at least six feet tall at the time of planting. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque and that meets the requirements of this Ordinance applicable to fences may be used if approved by the Planning Commission.

5. *Lighting.* Lighting of the Commercial Solar Energy System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Commercial Solar Energy System. The Commercial Solar Energy System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

6. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Commercial Solar Energy System, including any transformers and transfer stations. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Commercial Solar Energy System.

7. *Noise.* The noise generated by a Commercial Solar Energy System must not exceed the following limits:

a. Forty (40) Dba Lmax, as measured at the property line of any adjacent R (Residential) or C-1 & C-2 (Commercial) zoned land in existence at the time the Commercial Solar Energy System is granted special land use approval.

b. Forty (40) Dba Lmax, as measured at any neighboring residence in existence at the time the Commercial Solar Energy System is granted special land use approval, between the hours of 9:00 p.m. and 7:00 a.m.

c. Forty (40) Dba Lmax, as measured at the lot lines of the project boundary.

d. In addition to the above limitations, a sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than 10 feet apart, must be constructed to reduce noise levels surrounding all inverters. The berm must be no more than ten (10) feet from all inverters, must be at least as tall as all inverters but not more than three (3) feet taller than the height of all inverters.

8. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Commercial Solar Energy System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation. If batteries are used as part of the Ground Mounted Solar Energy System, they must be placed in a secured container or enclosure.

9. *Drain Tile Inspections.* The Commercial Solar Energy System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Commercial Solar Energy System is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

10. Health and Safety: The Planning Commission shall not recommend for approval any Commercial Solar Energy System Special Land Use Permit if it finds the Commercial Solar Energy System will pose an unreasonable safety hazard to the occupants of any surrounding properties or area wildlife. The Commercial Solar Energy System shall not contain any element or chemical that either singly or in combination with an element or chemical in the system or environment that has a reasonable potential to result in toxic environmental contamination (air, soil, water), thereby threatening the health of any form of life. A list of all components, elements or chemicals must be accompanied with all applicable MSDS forms and referred to, for clarification if required in associated reference guides, ie. CRC handbook or others to be determined) and is subject to the following:

a. Surface Water Containment: All Commercial Solar Energy Systems must have water run off containment systems that comply with EPA standards. The system must be designed with the intention of containing surface water runoff. This runoff would be contained in the event solar panels or related equipment leaked into the soil of the solar field.

b. In Field Containment of toxins or chemicals: The solar field must have a liner or containment material that would catch toxins, chemicals, or other harmful materials leaking from the solar panel and related equipment.

c. Soil Testing: Because some elements or chemicals used by these solar arrays may have the potential for environmental contamination, soil testing of the Commercial Solar Energy System site will be a requirement as follows:

1. Baseline soil testing and analysis shall be done prior to construction with a sample taken from each (4) acre section of the grid.

2. Annually, after construction is complete the samples will be based on (2) acre sections. The samples collected by the solar arrays; the cores will be taken at the drip point (lowest point) of the panel.

3. Soil testing shall be done with a soil probe or auger in the top 4-6 inches producing a core. A minimum of 10 cores would be a sample.

4. Soil samples at the support base shall be taken for potential contamination.

5. Soil samples shall be used to determine the microbial health of the soil.

6. All soil testing shall be grid based with all samples being GPS mapped.

7. If any contamination, as a result of elements or chemicals from the solar array or the maintenance of the solar array, additional soil testing sites may be required. The analysis shall include any element or chemical introduced by the solar array or used during maintenance which either singly or in combination has the potential to result in environmental contamination.

8. The soil testing, lab analysis and review of the analysis shall be performed by a firm or firms chosen by the Planning Commission and paid for from the Application Escrow Deposit. The Planning Commission may require additional testing when warranted.

9. If environmental contamination is discovered the Commercial Solar Energy System shall be shut down, site cleaned and retested before being allowed to go back online.

11. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least $10 million per occurrence.

12. *Decommissioning.* If a Commercial Solar Energy System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Commercial Solar Energy System that is never fully completed or operational if construction has been halted for a period of one (1) year.

13. *Financial Security.* To ensure proper decommissioning of a Commercial Solar Energy System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special land use application.

14. *Extraordinary Events.* If the Commercial Solar Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

15. *Annual Report.* The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:

a. Current proof of insurance;

b. Verification of financial security; and

c. A summary of all complaints, complaint resolutions, and extraordinary events.

16. *Inspections.* The Township may inspect a Commercial Solar Energy System at any time by providing 24 hours advance notice to the applicant or operator.

17. *Transferability.* A special use permit for a Commercial Solar Energy System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

18. *Remedies.* 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.

D. Commercial Solar Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Commercial Solar Energy Systems with a nameplate capacity of 50 megawatts or more. To the extent these provisions conflict with the provisions in subsection C above ("Commercial Solar Energy Systems"), the provisions below control as to such Commercial Solar Energy Systems. All provisions in subsection C above that do not conflict with this subsection remain in full force and effect. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Commercial Solar Energy Systems with a nameplate capacity of less than 50 megawatts.

a. *Setbacks.* Commercial Solar Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	**Setback Distance**
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

b. *Fencing.* Fencing for the Commercial Solar Energy System must comply with the latest version of the National Electric Code as November 29, 2024, or as subsequently amended.

c. *Height.* Solar panel components must not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.

d. *Noise.* The Commercial Solar Energy System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

e. *Lighting.* The Commercial Solar Energy System must implement dark sky-friendly lighting solutions.

f. *Environmental Regulations.* The Commercial Solar Energy System must comply with applicable state or federal environmental regulations.

g. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Commercial Solar Energy System owner must pay the Township $2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

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

Section 5. Effective Date.

This Ordinance takes effect seven (7) days after publication as provided by law.

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