

5.09 – RENEWABLE ENERGY

5.09.01 - Purpose

The purpose of this ordinance is to promote clean and renewable energy while providing protection of public health, safety, welfare in the Township. This ordinance is a compatible renewable energy ordinance under Public Act 233 of 2023 (PA 233).

5.09.02 - Scope

All renewable energy systems must meet all applicable requirements of this chapter to be permitted for construction and operation in the Township.

Public Acts 233 and 234 of 2023 provide for administration of regulations regarding renewable energy facilities, which the Township refers to under the broader category of Renewable Energy Systems.

5.09.03 – Types of Renewable Energy Systems

- A. Wind energy facility. A wind energy facility a system that captures and converts wind into electricity, for the purpose of sale or for use in locations other than solely the wind energy facility property. A wind energy facility under this ordinance has the same definition and includes the same equipment as a wind energy facility under MCL 460.1221(x).
- B. Solar energy facility. A solar energy facility is a system that captures and converts solar energy into electricity, for the purpose of sale or for use in locations other than solely the solar energy facility property. A solar energy facility under this ordinance has the same definition and includes the same equipment as a solar energy facility under MCL 460.1221(w).
- C. Battery Storage means an energy storage facility as that term is defined in MCL 460.1221(j).

5.09.04 – Permitted in all Districts

Renewable energy systems (wind, solar, and battery storage) are permitted in all districts, in Helena Township when conforming to the following conditions:

5.09.05 – Types of Renewable Energy Systems

- A. Accessory renewable energy systems are permitted as a use by right in all districts. Accessory energy systems are of a type generally used by individual homeowners at their residences or accessory structures. Such energy systems are permitted after application with the Helena Township Zoning Administrator subject to the provisions of applicable sections of the Zoning Ordinance. Such systems do not fall under the provisions of PA 233.
- B. Site-based renewable energy systems are systems that might be found in subdivisions or between agreeable neighbors who might wish to construct a system of a scale capable of meeting multiple user dimensions, and that are smaller than the minimum thresholds for Utility Scale Renewable Energy Systems set forth below. Approval of such systems require conformity to all applicable provisions of the MCL and compliance with the Helena Township Zoning Ordinance.
- C. Utility Scale Renewable Energy Systems are defined as follows:
 - 1. Any solar energy facility with a nameplate capacity of 50 megawatts or more.
 - 2. Any wind energy facility with a nameplate capacity of 100 megawatts or more.
 - 3. Any energy storage facility with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours or more.

Utility scale renewable energy systems require conformity to all applicable provisions of PA 233 and compliance with the Helena Township Zoning Ordinance.

5.09.06 – Accessory Wind Energy Systems

Accessory wind energy systems are permitted with a zoning permit, and subject to the standards and requirements in the Section:

- A. Height: An accessory wind energy system may not be higher than the maximum height of the structure it is attached to, plus 10 feet.
- B. Number: There shall be not more than one accessory wind energy system located on a structure.
- C. Noise: An accessory wind energy system shall not cause a sound pressure level in excess of 55 dB(A) or in excess of five dBA above the background noise, as measured by the ambient dB(A), whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe windstorms.
- D. Application: In addition to documentation normally required to apply for a zoning permit, an applicant for an accessory wind energy system shall submit any additional documentation that the zoning administrator determines is necessary to determine that the requirements of this Section are met.

5.09.07 On-Site Renewable Energy Systems

On-site renewable energy systems are permitted subject to approval of a Site Plan under Chapter 7, and subject to the standards and requirements in this Section:

- A. Height: An on-site renewable energy system may not be higher than 100 feet
- B. Number: In all zoning districts except agricultural, there shall be not more than one on-site wind energy system located on a parcel.
- C. Noise: An on-site wind energy system shall not cause a sound pressure level in excess of 55 dB(A) or in excess of five dBA above the background noise, as measured by the ambient dB(A), whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe windstorms.
- D. Set-back: On-site wind energy systems shall be set back from property lines a distance equal to the wind turbine generator total height. The Planning Commission may reduce this setback if adjacent property is owned or leased by the applicant, or permission is obtained from the adjacent property owner.
- E. Guy Wires: Any guy wires shall be made with or covered with material that is visible to a height of at least six feet above the ground.

- F. Ice Throw: Ice throw or shedding for an on-site wind energy system shall not have the potential to cross any property line nor impinge on any right-of-way or overhead utility line.
- G. Application: In addition to documentation normally required to apply for a Special Use Permit, an applicant for an on-site wind energy system shall submit any additional documentation that the zoning administrator determines is necessary to determine that the requirements of this Section are met.

5.09.08 – Anemometers and other renewable energy testing equipment.

Anemometers and other equipment used to test the suitability of a site for the placement of renewable energy facilities are exempt from this ordinance.

5.09.09 – Utility Scale Renewable Energy Systems:

- A. Utility-scale renewable energy systems are permitted only if they meet the requirements of this ordinance and the requirements for Site Plan approval under Chapter 7 of the zoning ordinance, and subject to the standards and requirements in this Section.
- B. Application requirements:
 - 1. An applicant for approval of a utility-scale renewable energy system shall submit an application and site plan meeting the requirements of this ordinance and Chapter 7 of the zoning ordinance. If any requirement of Chapter 7 is incompatible with any requirement in PA 233 or any rule issued by the Michigan Public Service Commission (MPSC) under PA 233, then the requirement in PA 233 or rule issued under PA 233 shall control.
 - 2. The site plan shall include the following:
 - a. The location and a description of the energy facility.
 - b. A description of the anticipated effects of the energy facility on the environment, natural resources, and solid waste disposal capacity,

which may include records of consultation with relevant state, tribal, and federal agencies.

- c. Any additional information required for site plans under PA 233 by MPSC rule or order.

3. The application shall include the following:

- a. The complete name, address, and telephone number of the applicant.
- b. The planned date for the start of construction and the expected duration of construction.
- c. A description of the energy facility.
- d. A description of the expected use of the energy facility.
- e. Expected public benefits of the proposed energy facility.
- f. The expected direct impacts of the proposed energy facility on the environment and natural resources and how the applicant intends to address and mitigate these impacts.
- g. Information on the effects of the proposed energy facility on public health and safety.
- h. A description of the portion of the Township where the energy facility will be located.
- i. A statement and reasonable evidence that the proposed energy facility will not commence commercial operation until it complies with applicable state and federal environmental laws, including, but not limited to, the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, MCL 324.101 to 324.90106, as amended.
- j. A summary of the community outreach and education efforts undertaken by the electric provider or independent power producer (IPP), including a description of public meetings and meetings with elected officials.
- k. Evidence of consultation, before submission of the application, with the Department of Environment, Great Lakes, and Energy and

other relevant state and federal agencies before submitting the application, including, but not limited to, the department of Natural Resources and the Department of Agriculture and Rural Development.

- l. The soil and economic survey report under section 60303 of NREPA, MCL 324.60303, for Antrim County.
- m. Interconnection queue information for the applicable regional transmission organization.
- n. If the proposed site of the energy facility is undeveloped land, a description of feasible alternative developed locations, including, but not limited to, vacant industrial property and brownfields, and an explanation of why they were not chosen.
- o. If the energy facility is reasonably expected to have an impact on television signals, microwave signals, agricultural global position systems, military defense radar, radio reception, or weather and doppler radio, a plan to minimize and mitigate that impact. Information in the plan concerning military defense radar is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by the Township or the electric provider or IPP except pursuant to court order.
- p. A stormwater assessment and a plan to minimize, mitigate, and repair any drainage impacts at the expense of the electric provider or IPP.
- q. The applicant shall make reasonable efforts to consult with the County Drain Commissioner before submitting the application and shall include evidence of those efforts in its application.
- r. A fire response plan and an emergency response plan.
- s. A decommissioning plan that is consistent with agreements reached between the applicant and other landowners of participating properties and that ensures the return of all participating properties to a useful condition similar to that which existed before construction, including removal of above-surface facilities and infrastructure that have no ongoing purpose.

- i. The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, but excluding cash.
- ii. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the energy facility, after deducting salvage value, as calculated by a third party with expertise in decommissioning, hired by the applicant.
- iii. However, the financial assurance may be posted in increments as follows:
 - 1. At least 25% by the start of full commercial operation.
 - 2. At least 50% by the start of the fifth year of commercial operation.
 - 3. 100% by the start of the tenth year of commercial operation.
- t. An application fee of \$75,000.00, or an escrow deposit and account under Section 2.01.02(B), as determined by the Township.
- u. Other information that the Township determines is necessary to determine compliance with the compatible renewable energy ordinance.

C. Approval Process for Utility Scale Renewable Energy Systems:

- 1. The Planning Commission shall hold a public hearing on the application and recommend to the Township Board approval, approval with conditions, or denial of the application.
- 2. The Township Board shall review the Planning Commission's recommendation and shall approve, approve with conditions, or deny the application.
- 3. The Township shall approve or deny the application within 120 days after receiving the application. The applicant and Township may jointly agree to extend this deadline by up to 120 days.

D. Approval Standards, Conditions, and Requirements:

- A. In evaluating the application, the Township shall consider the feasible alternative developed locations described under section 5.09.09(B)(3)(n), if applicable, and the impact of the proposed facility on local land use, including the percentage of land within the local unit of government dedicated to energy generation.
- B. The Township may condition its grant of the application on the applicant taking additional reasonable action related to the impacts of the proposed energy facility, including, but not limited to, the following:
 - a. Establishing and maintaining for the life of the facility vegetative ground cover. This subdivision does not apply to an application for an energy facility that is proposed to be located entirely on brownfield land.
 - b. Meeting or exceeding pollinator standards throughout the lifetime of the facility, as established by the “Michigan Pollinator Habitat Planning Scorecard for Solar Sites” developed by the Michigan State University Department of Entomology in effect on the effective date of the amendatory act that added this section or any applicable successor standards approved by the MPSC under PA 233. Seed mix used to establish pollinator plantings shall not include invasive species as identified by the Midwest Invasive Species Information Network, led by researchers at the Michigan State University Department of Entomology and supporting regional partners. This subdivision does not apply to an application for an energy facility that is proposed to be located entirely on brownfield land.
 - c. Providing for community improvements in the Township.
 - d. Making a good-faith effort to maintain and provide proper care of the property where the energy facility is proposed to be located during construction and operation of the facility.
- C. The Township shall grant the application and issue a certificate if it determines all of the following:
 - a. The public benefits of the proposed energy facility justify its construction. For the purposes of this subdivision, public benefits include, but are not limited to, expected tax revenue paid by the energy facility to local taxing districts, payments to owners of participating property, community benefits agreements, local job creation, and any contributions to meeting identified energy, capacity, reliability, or

resource adequacy needs of this state. In determining any contributions to meeting identified energy, capacity, reliability, or resource adequacy needs of this state, the commission may consider approved integrated resource plans under section 6t of 1939 PA 3, MCL 460.6t, renewable energy plans, annual electric provider capacity demonstrations under section 6w of 1939 PA 3, MCL 460.6w, or other proceedings before the MPSC, at the applicable regional transmission organization, or before the Federal Energy Regulatory Commission, as determined relevant by the Township.

- b. The energy facility complies with the standard in section 1705(2) of NREPA, MCL 324.1705, also known as the Michigan Environmental Protection Act.
- c. The applicant has considered and addressed impacts to the environment and natural resources, including, but not limited to, sensitive habitats and waterways, wetlands and floodplains, wildlife corridors, parks, historic and cultural sites, and threatened or endangered species.
- d. The applicant has entered, or will enter as a condition of approval, a host community agreement with the Township; or a community benefits agreement with 1 or more community-based organizations; and said agreement meets or will meet the conditions established in section 5.09.09.F of this ordinance.
- e. All of the following apply:
 - i. The installation, construction, or construction maintenance of the energy facility will use apprenticeship programs registered and in good standing with the United States Department of Labor under the national apprenticeship act, 29 USC 50 to 50c.
 - ii. The workers employed for the construction or construction maintenance of the energy facility will be paid a minimum wage standard not less than the wage and fringe benefit rates prevailing in the locality in which the work is to be performed as determined under 2023 PA 10, MCL 408.1101 to 408.1126, or 40 USC 3141 to 3148, whichever provides the higher wage and fringe benefit rates.

- iii. To the extent permitted by law, the entities performing the construction or construction maintenance work will enter into a project labor agreement or operate under a collective bargaining agreement for the work to be performed.
 - f. The proposed energy facility will not unreasonably diminish farmland, including, but not limited to, prime farmland and, to the extent that evidence of such farmland is available in the evidentiary record, farmland dedicated to the cultivation of specialty crops.
 - g. The proposed energy facility does not present an unreasonable threat to public health or safety.
- D. An energy facility meets the requirements of section (3)(g) if it will comply with the following standards, as applicable:
- a. For a solar energy facility, all of the following:
 - i. 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

- ii. Fencing for the solar energy facility complies with the latest version of the National Electric Code as of the effective date of the amendatory act that added this section or any applicable successor standard approved by the MPSC under PA 233.
- iii. Solar panel components do not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.
- iv. The solar energy facility does 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.

- v. The solar energy facility will implement dark sky-friendly lighting solutions.
- vi. The solar energy facility will comply with any more stringent requirements adopted by the MPSC under PA 233.

b. For a wind energy facility, all of the following:

- i. The following minimum setback distances, measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

- ii. Each wind tower is sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.
- iii. Each wind tower blade tip does not exceed the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

- iv. The wind energy facility does 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.
 - v. The wind energy facility is equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:
 - 1. The purpose of the exemption.
 - 2. The proposed length of the exemption.
 - 3. A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
 - 4. The technical or economic reason a light-mitigating technology is not feasible.
 - 5. Any other relevant information requested by the Township.
 - vi. The wind energy facility meets any standards concerning radar interference, lighting, subject to subsection (v), or other relevant issues as determined by the Township.
 - vii. The wind energy facility will comply with any more stringent requirements adopted by the MPSC under PA 233.
- c. For an energy storage facility, all of the following:
- i. 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

- ii. The energy storage facility complies with the version of NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” in effect on the effective date of PA 233 or any applicable successor standard adopted by the MPSC as reasonable and consistent with the purposes of this subdivision.
 - iii. The energy storage facility does 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.
 - iv. The energy storage facility will implement dark sky-friendly lighting solutions.
 - v. The energy storage facility will comply with any more stringent requirements adopted by the MPSC under PA 233.
- E. Project completion. If construction of an energy facility is not commenced within 5 years after the date of Township approval, the approval is invalid, but the electric provider or IPP may file a new application for the proposed energy facility. If the approval is appealed in proceedings before the MPSC or to a court of competent jurisdiction, the running of the 5-year period is tolled from the date of filing the appeal until 60 days after issuance of a final non-appealable decision. The Township may extend the 5-year period at the request of the applicant and upon a showing of good cause without requiring a new application.
- F. Host Community Agreement or Community Benefits Agreement.
- a. The applicant shall enter into a host community agreement with the Township.

- i. The host community agreement shall require that, upon commencement of any operation, the energy facility owner must pay the affected local unit \$2,000.00 per megawatt of nameplate capacity located within the affected local unit.
 - ii. The payment shall be used as determined by the affected local unit for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.
- b. If the Township refuses to enter into a host community agreement after good-faith negotiations with the applicant, the applicant may enter into a community benefits agreement with 1 or more community-based organizations within, or that serve residents of, the Township.
 - i. The amount paid by the applicant under this subsection must be equal to, or greater than, what the applicant would pay to the affected local unit under subsection (a).
 - ii. Community benefits agreements shall prioritize benefits to the community in which the energy facility is to be located.
 - iii. The topics and specific terms of the agreements may vary and may include, but are not limited to, any of the following:
 - 1. Workforce development, job quality, and job access provisions that include, but are not limited to, any of the following:
 - a. Terms of employment, such as wages and benefits, employment status, workplace health and safety, scheduling, and career advancement opportunities.
 - b. Worker recruitment, screening, and hiring strategies and practices, targeted hiring planning and execution, investment in workforce training and education, and worker input and representation in decision making affecting employment and training.
 - c. Funding for or providing specific environmental benefits.

- d. Funding for or providing specific community improvements or amenities, such as park and playground equipment, urban greening, enhanced safety crossings, paving roads, and bike paths.
 - e. Annual contributions to a nonprofit or community-based organization that awards grants.
- c. A host community agreement or community benefits agreement is legally binding and inures to the benefit of the parties and their successors and assigns. Such agreements are enforceable in a court of competent jurisdiction.

5.09.10 – Utility-Scale Wind Energy Systems - Removal

- A. Any utility-scale wind energy system that is not operational for a continuous period of 24 months shall be considered abandoned, and the owner shall remove the system within 180 days of abandonment. Failure to remove the system within 180 days shall be grounds for the Township to remove it at the owner's expense.
- B. In addition to removing the wind energy system, the owner shall restore the site to its original condition, subject to reasonable wear and tear. Any foundations associated with the wind generator or anemometer tower shall be removed to a minimum depth of five feet below the final grade and site vegetation shall be restored.
- C. The Township may access and use the financial assurance provided in connection with the decommissioning plan for removal and restoration costs.

5.09.11 – Repair or Replacement

Major components of a wind energy system may be replaced without a modification of existing zoning approvals all regulations contained in this ordinance and all conditions attached to the approval are adhered to.

5.09.12 – Conflicts

In any case of conflict between the requirements of this Chapter and other Chapters of the Helena Township Zoning Ordinance with respect to a wind energy system, this Chapter will control.