

Brookside of Superior Township Condominium Association

Solar Energy Policy Statement

Effective as of June 26, 2025

The Homeowners' Energy Policy Act, MCL 559.301 *et seq.* ("HEPA"), invalidates certain provisions in homeowners' association agreements that prohibit the replacement, maintenance, installation, or operation of certain energy-saving improvements or modifications or the installation of solar energy systems. HEPA also requires homeowners' associations to adopt a written solar energy policy statement that complies with certain terms and conditions of the act.

Under Article IV, Section 3(a)(i) of the Master Deed, each Co-owner is responsible for the maintenance, repair, and replacement of their Unit, "provided, however, that the exterior appearance of such Units, to the extent visible from any other Unit or Common Element on the Project, shall be subject at all times to the approval of the Association and to reasonable aesthetic and maintenance standards prescribed by the Association in duly adopted rules and regulations." Likewise, a Co-owner desiring to alter, modify, or change their Unit must first obtain the Board of Directors' express written approval under Article VI, Section 7 of the Condominium Bylaws.

The Board of Directors is responsible for managing the affairs of the Association under Article XI, Section 3 of the Condominium Bylaws and managing and administering the affairs of the Condominium under Article XI, Section 4(a) of the Condominium Bylaws. The Board of Directors may "make rules and regulations from time to time to reflect the needs and desires of the majority of the Co-owners in the Condominium," concerning the use of the Common Elements under Article VI, Section 13 of the Condominium Bylaws.

The Association notes that the plain language of HEPA does not indicate that it applies to condominium associations; however, the Association will adopt and maintain the written solar energy policy statement required by HEPA for so long as HEPA remains in effect. Therefore, in compliance with MCL 559.309, the Board now adopts the following Solar Energy Policy Statement pursuant to Article VI, Section 13 of the Condominium Bylaws.

Solar Energy Policy Statement

Section 1. Conflict Between Condominium Documents and HEPA. Pursuant to MCL 559.305 and MCL 559.307, to the extent one (1) or more provisions within the Condominium Documents violate HEPA, those provisions are invalid and unenforceable as contrary to public policy and HEPA will control.

Section 2. Conflict Between HEPA and Policy Statement. Pursuant to MCL 559.309(1)(e), to the extent any provision within this Solar Energy Policy Statement ("Policy Statement") contradicts HEPA, that provision is void and unenforceable and the language within HEPA will control.

Section 3. Applicability to Shared Roofs and Common Areas. Pursuant to MCL 559.313, HEPA does not apply to any shared roofs or common areas in the Condominium, if any. A “shared roof” is defined as a “roof that serves more than one (1) home or unit, including, but not limited to, a contiguous roof that serves adjacent homes or units.” A “common area” is defined as “a portion of a building, land, or amenities owned or managed by the homeowners’ association that is generally accessible to all members of the association.” For purposes of this Policy Statement, “common areas” include, but are not limited to, the General Common Element land identified in Article IV, Section 1(a) of the Master Deed, which includes any parking areas, walks, landscaped and open areas, wetlands and parks that are not included in a Unit.

Section 4. Review and Approval of Solar Energy Systems.

A. Definition of Solar Energy Systems. MCL 559.303(j) defines a “solar energy system” as “a complete assembly, structure, or design of a solar collector, or a solar storage mechanism that uses solar energy for generating electricity or heating or cooling gases, solids, liquids, or other materials. Solar energy system includes the design, materials, or elements of a solar energy system and its maintenance, operation, labor components, and the necessary components, if any, of supplemental conventional energy systems designed or constructed to interface with a solar energy system.”

B. Review and Approval Specifications and Requirements.

- i. Under Article VI, Section 7 of the Bylaws, a Co-owner desiring to install a solar energy system must submit a written application to the Board. A Co-owner may not install a solar energy system on a common area, as defined in Section 3 above.
- ii. A Co-owner’s written application must include the following information under MCL 559.311:
 1. The Co-owner’s name.
 2. The Co-owner’s street address.
 3. The name and contact information of the person that will install the solar energy system.
 4. An image that shows the layout of the solar energy system on the Co-owner’s home.
 5. A description of the solar energy system to be installed.
- iii. The Board of Directors may not ask the Co-owner about their energy usage. The Board of Directors may not consider the identity of the entity that owns the solar energy system or financing method chosen

by the Co-owner when considering whether to approve their application.

- iv. Any fee that the Association may charge to review the application must be charged at the same rate as other alteration and modification requests.
- v. When reviewing a Co-owner's application, the Board of Directors will consider all the following:
 - 1. Solar energy systems may be installed on a roof face.
 - 2. No specific technology, such as solar shingles or traditional solar panels, is required to be utilized in the installation of a solar energy system.
 - 3. The approval of an adjacent Co-owner is not required.
 - 4. Any standards enforced under this Policy Statement may not result in a reduction in the estimated annual electrical production of electricity by the solar energy system by more than ten (10%) percent.
 - 5. Any standards enforced under this Policy Statement may not increase the total cost of the installation of the solar energy system to the Co-owner by more than \$1,000.00.
 - 6. No conditions that impair the operation of the solar energy system may be imposed.
 - 7. No conditions that negatively impact any component industry standard warranty may be imposed.

C. Denying Applications to Install Solar Energy Systems. The Board of Directors may deny a written application to install a solar energy system if one (1) or more of the following apply:

- i. A court has found that the installation violates a law.
- ii. The installed solar energy system does not substantially conform with the Co-owner's approved application.
- iii. The Board of Directors has determined that the solar energy system will be installed on the roof of the Co-owner's home and:
 - 1. The solar energy system will extend above or beyond the roof of

the home by more than six (6") inches;

2. The solar energy system does not conform to the slope of the roof and has a top edge that is not parallel to the roof line; or
3. The solar energy system has a frame, support bracket, or visible conduit or wiring that is not silver, bronze, or black tone that are commonly available in the marketplace.

iv. The Board of Directors has determined that both:

1. The solar energy system will be installed in a fenced yard or patio rather than on the roof of a home or unit; and
2. The solar energy system will be taller than the fence line.

D. Deadline to Approve or Deny Application. The Board of Directors will either approve or deny the Co-owner's application within thirty (30) days of its receipt. If the Board of Directors does not approve or deny the Co-owner's application within thirty (30) days of its receipt, the Co-owner may proceed with the installation of the solar energy system in compliance with HEPA and the Association may not impose fines or otherwise penalize the member for complying with HEPA.

Section 5. Resubmission of Solar Energy System Applications. If the Board of Directors previously denied a Co-owner's application to install a solar energy system prior to the enactment of HEPA, the Co-owner may submit another written application to the Board of Directors and the Board of Directors will reconsider the application under HEPA. If the Board of Directors denies a Co-owner's application to install a solar energy system that was submitted after the enactment of HEPA, the Co-owner may later resubmit another written application to install a solar energy system.

Section 6. Post-Installation Requirements. After the Co-owner's installation of a solar energy system, the Association will not require post-installation reporting.

Section 7. Compliance with State and Local Laws. Co-owners will comply with all state and local building codes and permit requirements when installing solar energy systems.

Section 8. Removal of Solar Energy Systems. The Association may require the removal of a solar energy system if one (1) or more of the conditions outlined in Section 4(C) above apply.

Section 9. Distribution and Availability of Policy Statement. This Policy Statement was made available to the Association's members no later than thirty (30) days after its adoption and will be made available to the Co-owners upon request. If the Association maintains an Internet website, this Policy Statement will be posted and maintained on that website.

Section 10. Invalidity or Repeal HEPA. If HEPA is found to be unenforceable under Michigan law or is repealed, this Policy Statement will automatically be rescinded and no longer in effect.

Section 11. Severability. If any one or more of the provisions in this Policy Statement is, for any reason, held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Policy Statement, and this Policy Statement will be construed as if it never contained any invalid, illegal, or unenforceable provision.

This Solar Energy Policy Statement was adopted by the Board of Brookside of Superior Township Condominium Association at its Regular Meeting on June 17, 2025.

BOARD OF DIRECTORS

**Brookside of Superior Township
Condominium Association**



By: Mark Sondergaard

Its: President