

FISHING CREEK TOWNSHIP  
COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 01-2023

AN ORDINANCE TO PROVIDE A REGULATORY FRAMEWORK FOR THE CONSTRUCTION OF THE SOLAR ENERGY SYSTEMS IN FISHING CREEK TOWNSHIP, SUBJECT TO REASONABLE RESTRICTIONS WHICH WILL PRESERVE THE PUBLIC HEALTH, SAFETY AND WELFARE, WHILE ALSO MAINTAINING THE CHARACTER OF FISHING CREEK TOWNSHIP.

**SECTION I-INTRODUCTION**

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§10101, *et seq.*, enables a municipality through an ordinance to regulate the use of property and to promote the conservation of energy through access to and use of renewable energy resources; and

WHEREAS, Fishing Creek Township seeks to promote the general health, safety and welfare of the community by adopting and implementing an Ordinance providing for access to and use of solar energy systems; and

WHEREAS, the purpose of this Ordinance is to set forth requirements for solar energy systems;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Fishing Creek Township Board of Supervisors, Columbia County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

**SECTION II-DEFINITIONS**

**Accessory Solar Energy System:** An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

**Conditional Use:** A use which may not be appropriate in a particular district as a whole but which may be suitable in certain locations within the district when specific conditions and factors prescribed within this Ordinance for such cases are met. "Conditional Uses" are allowed or denied by the Board of Supervisors.

**Impervious Surface:** That portion of a lot (expressed as a percentage) that does not absorb precipitation. All buildings, structures, parking areas, driveways, roads, sidewalks, and any areas in gravel, concrete, asphalt, etc. materials shall be considered impervious surfaces.

**Principal Solar Energy System:** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

### **SECTION III- PRINCIPAL SOLAR ENERGY SYSTEMS (PSES)**

#### **3.1 Regulations Applicable to All Principal Solar Energy Systems:**

##### **3.1.1 Exemptions**

PSES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSES, whether or not existing prior to the effective date of this Section that materially alters the PSES shall require approval under this Ordinance. Routine maintenance or like kind replacements do not require a permit.

**3.1.2** The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), , Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by Tri-County Council of Governments (COG) and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

**3.1.3** PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

1. Is certified by the North American Board of Certified Energy Practitioners (NABCEP).
2. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems

**3.1.4** All on-site transmission and plumbing lines shall be placed underground to the extent feasible.



**3.1.5** The owner of a PSES shall provide the Township written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system.

**3.1.6** No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES.

**3.1.7 Glare**

1. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

**3.1.8** A noise study will be performed and included in the application. The noise study will be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 50 dBA, as measured at the property line.

**3.1.9** No trees or other landscaping otherwise required by the municipality or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

**3.1.10** The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

**3.1.11 Decommissioning**

1. The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
2. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. If the owner fails to dismantle and/or remove the PSES within the established timeframes, the municipality may complete the decommissioning at the owner's expense.
3. At the time of issuance of the permit for the construction of the PSES, the owner shall provide evidence that financial security will be in place at the start of commercial operation in the form and amount of a bond, irrevocable letter of credit, or other financial security acceptable to the Township to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, in the amount of 110% of the estimated decommission cost

minus the salvageable value. Every 5 years a new engineer's estimate of probable cost of decommissions shall be submitted for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the Township shall be adjusted upward or downward as necessary.

**3.1.12** Prior to the issuance of a permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself : (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

**3.1.13 Permit Requirements**

1. PSES shall comply with the County subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.
2. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.

**3.2 Ground Mounted Principal Solar Energy Systems:**

**3.2.1 Minimum Lot Size 5 acres**

**3.2.2 Setbacks** PSES shall comply with the setback of fifty (50) feet on all sides for principal structures.

**3.2.3 Impervious Coverage**

1. The area beneath the ground mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable District.
2. The following components of a PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district:
  - (a) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
  - (b) All mechanical equipment of PSES including any structure for batteries or storage cells. The solar modules themselves, however, are not included as impervious cover.
  - (c) Gravel or paved access roads servicing the PSES.

**3.2.4** PSES owners are required to follow the current **PA DEP Guidelines for Solar Collectors** as a best management practice for storm water management.



**3.2.5** Ground mounted PSES shall be screened from non-participating adjoining residential uses unless landowner waives such requirement. Also highly trafficked sections of road shall be screened as determined by the Township. The location and specifications for required screening shall be indicated on the land development plan.

**3.2.6** Ground-mounted PSES shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

**3.2.7 Security**

1. All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
2. A clearly visible warning sign shall be placed at the base of all pad mounted transformers and substations and on the fence on the surrounding the PSES informing individuals of potential voltage hazards.

**3.2.8 Access**

1. At a minimum, a twenty-five foot (25) wide access road must be provided from a state or township roadway into the site.
2. Internal cartways shall be a minimum of sixteen (16) feet to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

**3.2.9** The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

**3.2.10** If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

**3.3 Roof and Wall Mounted Principal Solar Energy Systems:**

**3.3.1** For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and COG building code of the township that the roof or wall is capable of holding the load imposed on the structure.

**3.4-Zoning Permit and Ordinance Enforcement**

**3.4.1 Inspections**

During the construction period, the Inspection Officer (COG) shall inspect the premises to determine that the work is progressing in compliance with the information provided on the Permit application and with all other applicable Township laws. He/She shall make as many inspections as necessary to determine compliance

### **3.4.2 Revocation of Permit**

The Inspection Officer may revoke a Permit at any time if it appears that the application or accompanying plan is in any material respect false or misleading or that work being done upon the premises differs materially from that called for in the application. In such cases, the person holding the Permit shall immediately surrender it to the COG officer. A report of such revocation shall also be submitted to the Board of Supervisors.

### **3.4.3 Violations**

Failure to secure a Pre-construction Permit when required hereunder, failure to secure a Certificate of Compliance, or failure to carry out the provisions of this Ordinance, shall be considered a violation of this Ordinance.

### **3.4.4 Enforcement Notice**

If it appears to the Inspection Officer (COG) that a violation of the ordinance has occurred, the Inspection Officer, on behalf of the municipality, shall give notice of such alleged violation sending an enforcement notice stating at least the following:

- 1 The name of the owner of record and any other person against whom the municipality intends to take action.
- 2 The location of the property in violation.
- 3 The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
- 4 The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- 5 That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.
- 6 That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

### **3.4.5 Enforcement Remedies**

**3.4.5.1** District justices shall have initial jurisdiction over proceedings brought under this Ordinance

**3.4.5.2** Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgement of not more than \$600 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgement, the municipality may enforce the judgement pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance

to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgements, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgement. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section

ORDAINED AND ENACTED THIS 8th day of February, 2023.

FISHING CREEK TOWNSHIP:

BY: James L. Kline  
CHAIRMAN, BOARD OF  
SUPERVISORS

ATTEST:

Carola Ferdt  
SECRETARY

(SEAL)