

ORDINANCE NO. 1-2020

AN ORDINANCE OF FANNETT TOWNSHIP, FRANKLIN COUNTY, PENNSYLVANIA, ENACTING SOLAR REGULATIONS FOR THE TOWNSHIP.

WHEREAS, Section 1506 of the Pennsylvania Second Class Township Code, as amended, (53 P.S. 66506) provides the Fannett Township Supervisors with the right to make and adopt any Ordinances necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce, and manufacturers; and

WHEREAS, the Fannett Township Board of Supervisors deem it to be in the best interests of the public health and welfare of its citizens that the following solar regulations be enacted.

NOW, THEREFORE, by the authority of and pursuant to the provisions of the "Pennsylvania Second Class Township Code", Act of May 1, 1933 (P.L. 103, No. 69) as amended, be it enacted and ordained by the Fannett Township Board of Supervisors of Franklin County, Pennsylvania, that a new Ordinance entitled "Fannett Township Solar Regulations" is enacted. The text of the Ordinance is as follows:

SECTION I: Definitions. The following definitions shall apply to this Ordinance.

Accessory Solar Energy System (ASES) - 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 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.

Cartway - The area of a road or other street, within which vehicles are permitted, including travel lanes but not including shoulders, curbs, gutters, sidewalks, or drainage swales.

Glare - The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

DEP - The Pennsylvania Department of Environmental Protection.

Principal Solar Energy System (PSES) - 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.

Principal Use - The main or primary use of land or structures.

Solar Easement - A right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purposes of ensuring adequate access to direct sunlight for solar energy systems.

Solar Energy System - A device or design feature or features, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water cooling.

Solar Panel - That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

Solar Related Equipment - Items including a solar photovoltaic cell, module, panel or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

1. Solar Array: A grouping of multiple solar modules with purpose of harvesting solar energy.
2. Solar Cell: The smallest basic solar electric device which generates electricity when exposed to light.
3. Solar Module: A grouping of solar cells with the purpose of harvesting solar energy.

SECTION II: Accessory Solar Energy Systems (ASES).

A. Regulations Applicable to all ASES.

1. ASES that have a maximum power rating of not greater than 15kW shall be permitted. ASES that have a power rating greater than 15kW shall comply with the requirements of Sub-Section III of this Ordinance - Principal Solar Energy Systems.

2. Exemptions

(a) ASES with an aggregate collection and/or focusing area of ten (10) square feet or less are exempt from this Ordinance.

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

3. Permit Requirements

(a) Land Use Permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

(b) The Land Use Permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.

(c) The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare.

4. Decommissioning

(a) Each ASES and all solar-related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.

(b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

(c) The ASES owner shall, at the request of the Township, provide information concerning the amount of energy generated by the ASES in the last twelve (12) months.

5. The layout, design, installation and ongoing maintenance 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 Fannett Township, 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.

6. Upon completion of installation, the Accessory Solar Energy System shall be maintained in good working order in accordance with standards of the Fannett Township codes under which the Accessory Solar Energy System was constructed.

7. Accessory Solar Energy System installers must certify they are listed as a certified installer on the DEP's 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.

(a) Certification by the North American Board of Certified Energy Practitioners (NABCEP).

(b) Completion of the Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited Photovoltaic (PV) training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

(c) A registered home improvement contractor with the PA Attorney General's Office.

8. All on-site utilities, transmission lines, and plumbing shall be placed underground.

9. The owner of a grid-connected ASES shall provide Fannett Township written confirmation that the public utility company to which the Accessory Solar Energy System will be connected has been informed of the owner's intent to install a grid-connected system, and that the public utility company has approved of such connection. Off-grid systems shall be exempt from this requirement.

10. No portion of the Accessory Solar Energy System 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 Accessory Solar Energy System provided they comply with the prevailing sign regulations.

11. Glare

(a) All Accessory Solar Energy Systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

(b) 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.

12. Solar Easements

(a) An owner of an ASES may enter into solar easements with surrounding property owners. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the ASES.

(b) Any such easements shall be appurtenant, shall run with the land benefited and burdened, and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easements shall include, but not be limited to:

(i) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed.

(ii) Restrictions on the placement of vegetation, structures and other objects which may impair or obstruct the passage of sunlight through the easement.

(iii) Terms and conditions, if any, under which the easement may be revised or terminated.

(iv) Compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(c) If required, an Accessory Solar Energy System owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

13. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for a solar energy system 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, the following.

(a) The right to remain free of shadows and/or obstructions to solar energy caused by the development of adjoining or other property or the growth of any trees or vegetation on such property.

(b) The right to prohibit the development on or growth of any trees or vegetation on such property.

B. Roof Mounted and Wall Mounted ASES.

1. A roof mounted or wall mounted ASES may be located on a principal or accessory building.

2. ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for principal, and accessory buildings.

3. Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying districts.
4. Solar panels shall not extend beyond any portion of the roof edge.
5. Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
6. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township, and that the roof or wall is capable of holding the load imposed on the structure.

C. Ground Mounted ASES.

1. Yard Setbacks
 - (a) The minimum yard setbacks from, side and rear property lines shall be equivalent to the specified accessory structure setback, if any.
 - (b) Ground mounted ASES shall not be located in the required front yard.
2. Height: Freestanding ground mounted ASES shall not exceed the specified maximum accessory structure height, if any.
3. Impervious Coverage
 - (a) The area beneath the ground mounted ASES 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.
 - (b) The applicant shall submit a Storm Water Management Plan that demonstrates compliance with the Fannett Township Stormwater Management Ordinance.
4. Screening: Ground mounted ASES shall be screened from adjoining residential uses. The screening shall consist of coniferous and/or deciduous

trees and shall be planted in such a manner that they screen the ASES from the view of adjoining property owners. Said trees shall be a minimum of six (6) feet tall at planting and shall be replaced within six (6) months of death.

5. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

6. Ground mounted ASES 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.

SECTION III: Principal Solar Energy System (PSES).

A. Regulations Applicable to all PSES.

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

2. Permit Requirements

a. PSES shall comply with the Fannett Township Subdivision and Land Development Ordinance, including the submission and approval of a Land Development Plan. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.

b. Land Use Permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the PSES is constructed.

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

4. 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 respond to the public's inquiries and complaints.

5. Decommissioning

a. The PSES owner and/or operator 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.

b. 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 Township may complete the decommissioning at the owner's expense.

c. At the time of issuance of the Land Use Permit for the construction of the PSES, the owner shall provide financial security in a form and amount acceptable to the Township to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original. The amount of said financial security shall be determined by the Township Engineer. In addition, five (5) years after the date of the initial deposit of said financial security, and every five (5) years thereafter, the Township Engineer shall review the financial security to determine if said security needs to be increased or decreased. If a change in the amount of the financial security needs to be made, the owner/operator shall provide financial security in the amount required within thirty (30) days after being notified by Township.

6. The layout, design, installation and ongoing maintenance 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 Fannett Township, 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.

7. Upon completion of installation, the Principal Solar Energy System shall be maintained in good working order in accordance with standards of the Fannett Township codes under which the Principal Solar Energy System was constructed.

8. Principal Solar Energy System installers must certify they are listed, as a certified installer on DEP's 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.

a. Certification by the North American Board of Certified Energy Practitioners (NABCEP).

b. Completion of an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited Photovoltaic (PV) training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

9. All on-site utilities, transmission lines, and plumbing shall be placed underground.

10. The owner of the PSES shall provide Fannett Township written confirmation that the public utility company to which the Principal Solar Energy System will be connected has been informed of the owner's intent to install a grid-connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

11. No portion of the Principal Solar Energy System 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 Principal Solar Energy System provided they comply with the prevailing sign regulations.

12. Glare

a. All Principal Solar Energy Systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

b. 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.

13. Solar Easements

- a. An owner of a PSES may enter into solar easements with surrounding property owners. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the PSES.
- b. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easements shall include, but not be limited to:
 - i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;
 - ii. Restrictions on the placement of vegetation, structures and other objects which may impair or obstruct the passage of sunlight through the easement;
 - iii. Terms and conditions, if any, under which the easement may be revised or terminated;
 - iv. Compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.
- c. If required, a Principal Solar Energy System owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

14. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for a Principal Solar Energy System 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 the development of adjoining or other property or the growth of any trees or vegetation on such property.

b. The right to prohibit the development on or growth of any trees or vegetation on such property.

B. Ground Mounted PSES

1. Minimum lot size: The PSES shall meet the specified lot size requirements, if any.

2. Setbacks: PSES shall comply with the specified setbacks, for principal structures, if any.

3. Height: Ground mounted PSES shall comply with the specified building height restrictions for principal structures, if any.

4. Impervious Coverage

a. The area beneath the ground mounted PSES is considered pervious coverage. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations.

b. The applicant shall submit a Storm Water Management Plan that demonstrates compliance with the Fannett Township Stormwater Management Ordinance.

5. Ground mounted PSES shall be screened from adjoining residential uses or zones according to the standards found in Section II (c)(4) of this Ordinance.

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.

7. Security

a. All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.

b. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.

8. Access

- a. At a minimum, a 25' wide access road must be provided from a state or township roadway into the site.
 - b. At a minimum, a 20' wide cartway shall be provided between the solar arrays to allow access for maintenance and emergency 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.
 - c. Solar panels shall not extend into the cartway.
 - d. Access to the PSES shall comply with the access requirements in the Fannett Township Subdivision and Land Development Ordinance.
9. The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
 10. If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

C. Roof and Wall Mounted PSES

1. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and all building codes adopted by the Township, and that the roof or wall is capable of holding the load imposed on the structure.
2. PSES mounted on the roof or wall of any building shall be subject to the maximum height regulation of the underlying district.
3. Wall mounted PSES shall comply with the setbacks for principal, structures in the underlying districts.
4. Solar panels shall not extend beyond any portion of the roof edge.

SECTION IV: Penalties and Enforcement.

- A. This Ordinance shall be enforced as summary criminal offenses in accordance with Section 1601 of the Second Class Township Code, as amended, regarding regulations for health, public safety, building, property maintenance, housing or fire. The penalty to be imposed shall be a maximum fine of \$1,000 or

imprisonment for a maximum period of 90 days, or both. Each day that a violation exists and is continued shall constitute a separate offense.

- B. The Township shall also be entitled to recover from any owner all costs or fees (the "costs") arising out of or related to the enforcement of this Ordinance. Such costs may also include those to remedy violations of this Ordinance and abate nuisances. The costs shall include, but not be limited to, engineer fees, attorney fees and staff/employee time. The costs may be collected as a Municipal Claim under applicable law against the property. The Township may also enforce this Ordinance through an action in equity brought in the Franklin County Court of Common Pleas.

SECTION V: Waivers.

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unreasonable hardship, the Board of Supervisors may make such reasonable waivers thereto which are in accordance with modern and evolving principles and which are not contrary to the public interest and so that the spirit of the Ordinance shall be observed and substantial justice done.
- B. Application letter, along with all supporting data, for any waiver shall be submitted to the Township in writing by the applicant. The application letter shall state fully the grounds and all the relevant facts regarding the situation. The Supervisors may require additional details as part of their review.
- C. The Board of Supervisors shall make their decision, record the action and grounds for granting or denying the waiver in its minutes.

SECTION VI: REPEALER:

All provisions of other Fannett Township Ordinances are hereby revised and amended, as necessary and appropriate, in order to insure and confirm consistency thereof with the provisions of the present Ordinance. Any Ordinance or Resolution, or any portion of any Ordinance or Resolution, which is inconsistent with the contents of the present Ordinance shall be, and the same is hereby, repealed insofar as the same is affected by or inconsistent with the provisions of the present Ordinance.

SECTION VII: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such

portion shall be deemed to be a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the present Ordinance.

SECTION VIII: EFFECTIVE DATE

The Ordinance shall be effective on and as of _____, _____, 2020.

ENACTED AND ORDAINED into an Ordinance this _____ day of _____, 2020.

ATTEST:

FANNETT TOWNSHIP,
FRANKLIN COUNTY,
PENNSYLVANIA

BOARD OF SUPERVISORS OF
FANNETT TOWNSHIP

Georgia O'Donnell
Township Secretary / Treasurer

Chairperson

(SEAL)

I hereby certify that this Ordinance was duly approved at a meeting of the supervisors of Fannett Township, Franklin County, held on the 2nd day of July, 2020.

Georgia O'Donnell

Fannett Township Secretary