

ORDINANCE NO. 2 OF 2024

AN ORDINANCE OF FANNETT TOWNSHIP, FRANKLIN COUNTY,
PENNSYLVANIA, AMENDING AND RESTATING THE FANNETT TOWNSHIP
SOLAR REGULATIONS ORDINANCE.

WHEREAS, Fannett Township is a municipality classified as a township of the second class; and

WHEREAS, Fannett Township currently has an Ordinance entitled "Fannett Township Solar Regulations"; and

WHEREAS, Fannett Township contains extensive parcels of land that currently are being used for agricultural purposes or are capable of being used for such purposes; and

WHEREAS, in 1981, the General Assembly of the Commonwealth of Pennsylvania adopted, and the Governor of the Commonwealths of Pennsylvania approved, a statute titled the Pennsylvania Agricultural Securities Area Law, Act of June 30, 1981, P.L. 128, No. 43; and

WHEREAS, the Pennsylvania Agricultural Securities Area Law has subsequently been amended from time to time; and

WHEREAS, the Pennsylvania Agricultural Securities Area Law as amended is codified as 3 P.S. §§ 901-915; and

WHEREAS, the Pennsylvania Department of Agriculture has adopted regulations implementing the Pennsylvania Agricultural Securities Area Law as set forth at 7 Pa. Code Chapter 1381; and

WHEREAS, Section 2 of the Pennsylvania Agricultural Securities Area Law, 3 P.S. § 902, states that it is the declared policy of the Commonwealth "to conserve and protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products" and "to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air, as well as for aesthetic purposes;" and

WHEREAS, large-scale solar energy facilities are being developed on agricultural lands within Fannett Township, the Commonwealth of Pennsylvania and elsewhere, including some of the highest quality agricultural lands within Pennsylvania; and

WHEREAS, this trend is expected to continue and increase in the future; and

WHEREAS, the conversion of agricultural lands to use for large-scale solar energy facilities represents a significant threat to agricultural production and may permanently alter such agricultural lands so as to impede or impair future use of those lands for agricultural purposes; and

WHEREAS, Fannett Township wishes to make reasonable accommodations for use of solar energy within the Township while conserving and protecting agricultural lands within its boundaries from conversion to use for large-scale solar energy projects; and

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 current Fannett Township Solar Regulations be amended.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED that the Fannett Township Solar Regulations Ordinance is amended and restated 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. Ground mounted or freestanding Solar Energy Systems with an output greater than 1.5 times the annual energy needs of the principal residential use, or greater than 2.0 times the annual needs of the principal commercial manufacturing or institutional use shall be considered Principal Solar Energy Systems. In addition, any Solar Energy System with an output size of greater than 15vw shall be considered a principal solar energy system.

Agrivoltaics - The dual use of land for solar energy production and agriculture.

However, activities directly related to solar photovoltaic power development and use and structures related to any Accessory Solar Energy System (ASES) or Principal Solar Energy System (PSES) shall not be construed as part of a "normal agricultural operation" as defined by 3 P.S. § 952, and the production of energy from any portion of the ASES or the PSES shall not be construed as part of a "normal agricultural operation" as defined by 3 P.S. § 952 or as an "agricultural commodity" as defined by 3 P.S. § 952.

Applicant - The individual or entity seeking approval for a Solar Energy System pursuant to this Ordinance. The owners of the real property upon which the Solar Energy System shall be erected, as well as the applicant, shall be responsible for compliance with this Ordinance.

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.

Owner - The owner or owners of the property on which a Solar Energy Facility is located. If the Solar Energy Facility is on property that is leased or is otherwise operated by a person or entity that is not the owner of the property on which the

Solar Energy Facility is located, the term "Owner" shall include the person or entity responsible for permitting, construction and/or operation of a Solar Energy Facility and any person or entity which may subsequently acquire such responsibilities.

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. Any Solar Energy System that does not fit within the definition of an ASES shall be a PSES.

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 - Radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar Energy System - A device or design feature or features, a substantial purpose of which is to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power.

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 Project Area - The total area of land including the Principal Solar Energy System, the space between solar arrays, stormwater management area, access drives, fencing and internal access roads. The Solar Project Area does not include any associated setbacks, buffer yards, or any area set aside for agricultural uses and designed to be adequate for the maneuverability of typical farm equipment.

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 fit within the definition for ASES as set forth in Section 1 shall be permitted. Any Solar Energy System that does not fit within said definition shall comply with the requirements of 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. In the event of a violation of any of the foregoing provisions, the Township shall give written notice specifying the violation to the owner of the ASES and requiring the owner to conform or to remove the ASES within 30 days of receipt of notice.
- (d) The applicant shall provide adjoining landowners notice of their application by mailing said landowners a copy of the application at the time the application is filed with the Township. Proof of written notification mailed to all adjoining landowners of the applicant's application to the Township and the applicant's intent to install an ASES on the subject premises shall be provided.

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. The solar energy system owner is required to notify the Municipality within 24 hours of cessation or abandonment of the operation.
- (b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of six (6) continuous months. If the Township has cause to believe the ASES has

been discontinued or abandoned, the Township shall provide notice to the owner. The owner shall have ninety (90) days to respond and demonstrate that the system is operational or provide reasonable cause for discontinued operations and the proposed remedy for returning the system to operation.

(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. Failure of the property owner to maintain the solar energy system in good working order as determined by the Fannett Township Board of Supervisors shall be grounds for appropriate enforcement action by the municipality in accordance with applicable ordinances.
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. All underground wiring and conduit shall be installed to a minimum depth of 3 feet.

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. Exterior surfaces shall have a non-reflective finish.

(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. This

acknowledgement shall be submitted to the Township and placed on any required subdivision and/or land development plans.

(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.

(a) 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 100 feet. A lesser setback of no less than 25 feet may be employed if the affected adjoining landowner grants a written, signed, and notarized waiver acknowledging and agreeing to the lesser setback. The waiver shall also identify the affected adjoining property by tax parcel number, street address, and property owner's name and contact information.
 - (b) Ground mounted ASES shall not be located in the required front yard.
 - (c) The municipality may authorize the installation of a ground mounted ASES in front of the principal building, outside the required front yard, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively and provided that vegetative screening is provided.
- 2. Height: Freestanding ground mounted ASES shall not exceed 12' in height at maximum tilt.
- 3. 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 any applicable impervious surface limitations.
 - (b) The applicant may be required to submit a Storm Water Management Plan that demonstrates compliance with the Fannett Township Stormwater Management regulations.
 - (c) The total surface area of the arrays of ground mounted ASES on the property shall not exceed more than 15 percent of the net lot area.
- 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.

The landowner/operator shall maintain the vegetation in good condition. The Township Supervisors shall determine whether the vegetation is being maintained in good condition. If an adjoining property is used as a PSES then the screening requirement shall not apply in relation to the adjoining PSES property only.

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.
7. Noise levels shall at no time exceed fifty (50) decibels as measured outward from the property line. Determination of any reported noise violation shall be documented by Fannett Township or its official representatives.

D. Stormwater Requirements

1. The following structural components of a solar energy system shall be considered impervious coverage for purposes of stormwater management and calculated as part of any impervious coverage limitations:
 - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - b. All mechanical equipment of the system including any structure for batteries or storage cells.
2. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations.
3. Vegetative cover shall not be cut to less than 4 inches in height.
4. Gravel shall be considered an impervious cover.
5. The individual solar modules within an array shall be arranged in a fashion that allows the passage of runoff between each module, minimizing the creation of concentrated runoff.

6. All panels must be placed on land with an existing slope of 10% or less.
7. The bottom vertical clearance of the solar array shall be of adequate minimum height to promote vegetative growth below the array.

E. Agrivoltaics are permitted when:

1. Only shade-tolerant crops are proposed.
2. Plowing is prohibited, no-till application is required.
3. Cutting or mowing is limited to a height of no less than 4 inches.
4. Application of chemical fertilization or herbicides/pesticides is limited to the agronomic needs of the crop(s).

SECTION III: Principal Solar Energy System (PSES).

A. Regulations Applicable to all PSES.

1. Plan Requirements.

- a. Ground mounted PSES require submission of a land development plan. A Planning and Design Standards report per the Township Subdivision and Land Development Ordinance shall be provided.
- b. Roof mounted PSES do not require submission of a land development plan.
- c. Any applicant for a PSES has the burden of proving that the PSES shall not be detrimental to the public health, safety, and welfare of the residents of Fannett Township.

2. 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.

3. 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. In the event of a violation of any of the foregoing provisions, the Township shall give written notice specifying the violation to the owner of the PSES and requiring the owner to conform within 30 days of receipt of notice.
 - d. The PSES owner/operator shall provide the Township annually written notice confirming that the PSES remains operational and is continuing to generate and distribute power. Said annual notice should also provide a figure confirming the amount of power currently being generated by the PSES.
 - e. Proof of written notification mailed to all adjoining landowners of the applicant's application to the Township and the applicant's intent to install a PSES on the subject premises shall be provided.
- 4. 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.
 - 5. 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.
 - 6. PSES construction activities shall take place only between the hours of 7:00 a.m. and 7:00 p.m. during non-holiday weekdays.

7. Water Protection

- a. Prior to the start of development of the use, baseline testing of water samples from domestic supply wells on lots adjacent to the proposed solar energy facility for cadmium, zinc, nickel, mercury, and copper shall be performed by a recognized Pennsylvania laboratory. Results of such testing shall be provided to the Township and to the owners of the wells prior to the start of development. In the event that a well owner refuses access to a well for sampling, the applicant shall notify the Township in writing of the refusal, with a copy to the well owner, and shall not be required to sample the well.

8. Decommissioning

- a. The PSES owner and/or operator is required to notify the Township within 24 hours of 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 six (6) continuous months. If the Township has cause to believe the PSES has been discontinued or abandoned, the Township shall provide notice to the owner and/or operator. The owner and/or operator shall have ninety (90) days to respond and demonstrate that the system is operational or provide reasonable cause for discontinued operations and the proposed remedy for returning the system to operation. Any necessary permits and approvals including, but not limited to, erosion and sedimentation control plans, and permits under the National Pollutant Discharge Elimination System (NPDES) program pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, shall be obtained prior to the initiation of decommissioning activities.
- 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 by drawing on the financial security

described in subsection c. below. If the financial security funds are insufficient to dismantle and remove the PSES as described above, then the legal record owner of the property and the PSES owner/operator shall both be liable for any shortfall. This liability shall be joint and several liability. The Township shall have the right to place a lien on the property for any additional costs in excess of the financial security. Access roads and landscaping may remain in place if so desired by the property owner and such desire is expressed in writing to the Township.

- 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. The PSES Developer shall, at the time of application, provide the municipality with an estimate of the cost of performing the decommissioning activities required herein, prepared by an engineer licensed in the Commonwealth of Pennsylvania, together with an administrative and inflation factor of 25% to account for the cost of obtaining permits to complete said activities. The estimate shall not include an estimated salvage and resale value. The estimate shall indicate the anticipated life of the PSES. The decommissioning cost estimate formula shall be: Gross Cost of decommissioning activities + Administrative Factor of 25% = the decommissioning cost estimate. The Township Engineer shall then review said estimate and recommend for approval to the Board of Supervisors the final amount of financial security taking into account said estimate and other factors. The PSES Developer/ Owner shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review. 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 of the approval of the updated decommissioning security estimate by the Township.

- d. The decommissioning security may be in the form of cash, letter of credit, or bond.
- e. Prior to approval of any plan or permit for a PSES, the PSES Developer shall enter into a Development Agreement with the municipality outlining the responsibility of the parties under this Agreement as to the Decommissioning of the PSES.

9. Environmental Protection

- a. All PSES solar project area must be set back a minimum distance of 25 feet from any area designated as a wetland, a 100-year FEMA FIRM floodplain, or an area containing 15% slope or greater.
- b. All PSES solar project area shall be set back a minimum distance of 100 feet from a property listed on, or eligible for listing, on the National Register of Historic Places as designated by the State Historic Preservation Office.
- c. No solar project area shall be located on more than 25% of a host property's total Class I Soils and no more than 40% of its total Class II soils. The soils classification shall be as determined by the prevailing USDA NRCS Soil Maps. If the applicant refutes the validity of the USDA NRCS Soil Maps soils classification, the applicant may retain a certified professional soil scientist (at their expense) to conduct soil probes and provide lab analysis from accredited soil laboratories to petition the Township for an exception if the USDA NRCS Soil Maps and the actual soil sample analysis differ. For the township to consider such an exception, the soil scientist shall provide the date, time, grid sample map and certified copies of the soil analyses from the accredited laboratory. An exhibit illustrating the site's soil resources shall be provided as part of any land development plan.
- d. If a PSES is constructed on agricultural production pasture or fields, construction methods shall be used to preserve the original soil profile and to ensure that topsoil remains in its current place to support future agricultural uses. Altering the topography of the land in these areas by mass grading activities or by methods that would otherwise impair agricultural production pasture or fields for future agricultural use are prohibited.

10. 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.
11. 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. Failure of the property owner to maintain the solar energy system in good working order as determined by the Fannett Township Board of Supervisors shall be grounds for appropriate enforcement action by the municipality in accordance with applicable ordinances. Broken panels shall be removed within 48 hours of breakage. A maintenance inspection shall be conducted by the PSES owner/operator annually and within 48 hours after the conclusion of all storm events determined to be a tropical storm or hurricane. Such inspections shall include panel and array inspections for breakage and structural failure. A written inspection and maintenance response report shall be filed with the Township no later than ten (10) business days after conclusion of said inspection.
12. 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.

13. All on-site utilities, transmission lines, and plumbing shall be placed underground. All underground wiring and conduit shall be installed to a minimum depth of 3 feet.
14. 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.
15. 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.
16. A construction transportation plan shall be provided that illustrates all roadways and routes to be utilized for ingress to and egress from the PSES during construction activities. This plan shall address steps necessary to jointly inspect affected municipal roads prior to, during, and after construction activities. It shall also address steps to repair or replace municipal roads if they are damaged and paid for by the PSES owner/operator. Fannett Township shall require a bond from the PSES owner/operator for the costs of such repairs/maintenance consistent with existing municipal procedures.
17. 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. Exterior surfaces shall have a non-reflective finish.
 - b. Applicant shall submit a glare analysis study demonstrating through components design, siting or mitigation measures, that any glare produced by the PSES shall not have an adverse impact.

- c. The applicant has the burden of proving that any glare produced does not have an adverse impact on neighboring or adjacent uses either through component design, siting or mitigation.

18. 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).

19. 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 the following. This acknowledgement shall be submitted to the Township and placed on any required subdivision and/or land development plans.

- 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.

B. Ground Mounted PSES

1. Minimum lot size: The PSES solar project area shall be not less than 20 acres.
2. Setbacks: The solar project area yard setbacks shall be one hundred (100') feet from all property lines (front, rear, and side yards), and two hundred fifty (250') feet from the lot line of an adjacent lot improved with a dwelling or an unimproved lot in a residential area. However, if an adjoining property is used as a PSES with its solar project area also adjoining then the setback requirement shall not apply in relation to the adjoining PSES property only.
3. Height: Ground mounted PSES shall not exceed 12 feet in height at maximum tilt.
4. 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 any impervious surface limitations.

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

- 5. Ground mounted PSES and buildings located on PSES property shall be screened from view in the following manner:

A continuous (with the exception of gates at road frontage) vegetation buffer shall be installed between the property line and the solar project perimeter fence. Vegetative screening shall be required from any adjoining dwelling and from any adjoining residential, commercial, institutional, quasi-public or public use. Adjoining dwellings or uses shall also include those opposite to and separated from the PSES by a road. The screening shall consist of two offset rows of coniferous/evergreen trees of mixed varieties. Deciduous trees may be added in addition to conifers after the shielding requirement is met. Conifers shall be a six (6) feet minimum height at planting, consisting of species capable of growing to exceed height of panel installation. A landscape plan prepared by a licensed landscape architect, arborist, or someone knowledgeable and experienced in landscape design shall be submitted with soil requirements for successful planting and survival, and spacing between plants to be such that evergreens are expected to survive and will shield the PSES from view year-round. The vegetation shall be maintained in good condition by the owner/operator. The landscape plan shall include a maintenance plan and a litter and weed control plan along with a one-year contractor's warranty for all plantings. The Township Supervisors shall determine whether the vegetation is being maintained in good condition. Dead plants and trees must be removed and replaced within six (6) months of being notified by Fannett Township. Grass, weeds, and other plant cover shall not exceed a height of twelve (12) inches within the solar project area except for vegetative screening and agricultural crops.

Applicant shall provide financial security to ensure that the requirements of this Subsection are being complied with. The Township Engineer shall determine the amount of financial security. If the Township Supervisors determine that the screening is not being maintained the Supervisors or

their representatives may enter upon the property and replace the screening. The Supervisors may then use the financial security to pay for said costs. Additional financial security will then be provided by applicant to ensure that the initial amount of financial security is maintained.

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 any natural or 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. Fence details shall be provided as part of any land development plan. Fences shall be permanently maintained in good condition and repaired or replaced whenever necessary.
- b. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and at regular intervals on the fence surrounding the PSES informing individuals of any potential voltage hazards.
- c. A sign indicating 24-hour telephone contact to responsible party to report and react in a timely fashion to issues and/or emergencies shall be included. Instructions shall be provided to local fire and emergency personnel on how to safely enter and deactivate systems in daylight and night. Applicant will provide a means of immediate, 24-hour access to the site for emergency response personnel. (Knox boxes or equivalent).
- d. The owner/operator of the PSES shall offer to conduct annual training for local emergency response personnel focusing on the means and manner to respond to any emergency incident that may occur onsite.
- e. The owner/operator of the PSES shall provide local emergency response entities with detailed documentation showing the PSES layout, access roads and cartways, high-voltage equipment locations, chemical storage area locations, and the location of circuit breakers or "kill" switches to

shut down electrical current to or from various sections of the PSES. Such documentation shall be provided on a "need to know" basis as necessary to satisfy requirements relating to hazard mitigation, homeland security, and anti-terrorism initiatives.

- f. If emergency response personnel are deployed to the PSES in response to an incident, the PSES owner/operator shall reimburse all costs associated with said response.

8. Access

- a. A minimum 25' wide access road must be provided from a State or Township roadway into the site in accordance with applicable State and Township requirements.
- b. A minimum 16' 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. Highway Occupancy Permits shall be required from the State or Township for any proposed driveway access and/or utility road crossing.

- 9. No dusk to dawn automatic or artificial lighting of any type shall be allowed except to the extent required for safety or per requirements of any applicable federal, state, or local authority. Any lighting required for maintenance, safety, or emergency must be switched, and only activated when qualified personnel are present. All lighting shall be shielded and downcast such that light does not spill skyward or onto any adjacent parcel or public roadway.
- 10. If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

11. Noise levels shall at no time exceed fifty (50) decibels as measured outward from the property line. Determination of any reported noise violation shall be documented by Fannett Township or its official representatives.

12. Outdoor storage. No storage of materials or equipment shall be allowed outside on site after the initial construction period is completed.

13. Stormwater Requirements

- a. The following structural components of a solar energy system shall be considered impervious coverage for purposes of stormwater management and calculated as part of the impervious coverage limitations for the underlying zoning district:
 - i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - ii. All mechanical equipment of the system including any structure for batteries or storage cells.
- b. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations.
- c. Vegetative cover shall not be cut to less than 4 inches in height.
- d. Gravel shall be considered an impervious cover.
- e. The individual solar modules within an array shall be arranged in a fashion that allows the passage of runoff between each module, minimizing the creation of concentrated runoff.
- f. All panels must be placed on land with an existing slope of 10% or less.
- g. The bottom vertical clearance of the solar array shall be of adequate minimum height to promote vegetative growth below the array.

14. Agrivoltaics are permitted when:

- a. Only shade-tolerant crops are proposed.
- b. Plowing is prohibited, no-till application is required.
- c. Cutting or mowing is limited to a height of no less than 4 inches.

- d. Application of chemical fertilization or herbicides/pesticides is limited to the agronomic needs to the crop(s).

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: Liability Insurance for PSES.

Any owner/operator of a PSES shall submit to Township proof that it has public liability insurance (including personal injury liability) for at least \$1,000,000 per individual and at least \$2,000,000 per occurrence to cover any loss that may be incurred for or on account of any matter, cause or thing arising out of the PSES. Proof of insurance shall be a Certificate of Insurance and shall be provided to the Township at the time of commencement of construction and annually every year thereafter.

SECTION V: 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 VI: 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 VII: REPEALER AND SAVINGS CLAUSE:

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. However, the current "Fannett Township Solar Regulations" Ordinance shall remain in effect for Solar System applications that were submitted prior to this Ordinance taking effect.

SECTION VIII: SEVERABILITY 2003 2003

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 IX: EFFECTIVE DATE

This Ordinance shall be effective in accordance with the law.

ENACTED AND ORDAINED into an Ordinance this ____ day of _____, 2024.

ATTEST:

FANNETT TOWNSHIP,
FRANKLIN COUNTY,
PENNSYLVANIA

BOARD OF SUPERVISORS OF
FANNETT TOWNSHIP

Georgia O'Donnell
Township Secretary / Treasurer

Chairperson

(SEAL)