

ORDINANCE NO. 2025-01

DISTRICT TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE DISTRICT TOWNSHIP ZONING ORDINANCE OF 2018 (2018-01) AND ESTABLISHING REQUIREMENTS FOR THE INSTALLATION, OPERATION AND DECOMMISSIONING OF SOLAR ENERGY SYSTEMS AS PRINCIPAL AND ACCESSORY USES

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

WHEREAS, District Township, Berks County, Pennsylvania seeks to promote the general health, safety and welfare of the community by adopting and implementing this Ordinance providing for access to and use of solar energy systems; and

WHEREAS, the Township recognizes the importance of providing energy and power to the residents utilizing alternative energy systems, yet the Township seeks to maintain for future generations the agricultural and rural nature of the community as identified in the District Township Zoning Ordinance, and

WHEREAS, the purpose of this amendment to the Township Zoning Ordinance is to permit and set requirements for solar energy systems;

NOW THEREFORE IT IS HEREBY ENACTED AND ORDAINED by the governing body of District Township, Berks County, Pennsylvania that the Zoning Ordinance of District Township is amended as follows:

**Section 1. Definitions.**

**Section 301 “Definitions” of the District Township Zoning Ordinance is amended by adding the following terms in alphabetical order:**

Accessory Solar Energy System (ASES) - An alternative energy system consisting of any solar collector, solar energy device, or any structural design feature mounted on a principal building, accessory building, or on the ground, and whose primary purpose is the collection of solar energy to generate electricity, or otherwise convert solar energy into electricity primarily for on-site use.

Agrovoltaics (A/K/A/ “Agrophotovoltaics” or “Agrisolar”) - The simultaneous use of areas of land for both solar voltaic power generation and agriculture, including the growing of crops for food, clothing, or commercial or industrial use in the shade of solar panels.

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

Lot Size – The area of land contained within the limits of the property lines bounding that area excluding:

- A. Areas within an existing or proposed, public or private access or utility easement or right-of-way; and
- B. The access strip of a flag lot, floodplains, wetlands, watercourses (top of bank), and slopes 25% and over.

Principal Solar Energy System (PSES) - An alternative energy system consisting of roof mounted or ground mounted solar collection devices and solar energy related equipment to generate electricity or otherwise convert solar energy into mechanical or other forms of energy for the primary purpose of using the energy for commercial or off-site use or a system existing solely to generate energy for sale back into the existing electrical distribution system, rather than being consumed on site.

Solar Array – A group of photovoltaic solar panels or cells that convert sunlight into electricity, arranged and linked in such a way as to operate as a single unit. The term also refers to a similar set of reflecting mirrors used for directing and focusing sunlight onto such a group of photovoltaic units.

Solar Energy - The radiant energy (direct, diffuse and reflected) received from the sun.

Solar Grazing – The practice of using livestock to manage vegetation around solar panels.

Solar Panels – A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

## **Section 2. District Regulations C - Conservation District**

**Section 500 “C – Conservation District” of the District Township Zoning Ordinance is amended by revising Subsection i under Section 1 “Permitted Uses” to read as follows:**

“i. Accessory buildings and uses clearly incidental to the principal use of the above permitted uses when located on the same lot including small scale livestock activities subject to the applicable requirements of Section 633 of this Ordinance and accessory solar energy systems (ASES) subject to the applicable requirements of Section 637.1 of this Ordinance.”

**Section 3. District Regulations C - Conservation District**

**Section 500 “C – Conservation District” of the District Township Zoning Ordinance is amended by adding a new Subsection b under Section 3 “Conditional Uses” to read as follows:**

“b. Principal solar energy systems (PSES) subject to the applicable requirements of Section 637.2 of this Ordinance.”

**Section 4. District Regulations A-1 - Agricultural District**

**Section 501 “A-1 - Agricultural District” of the District Township Zoning Ordinance is amended by revising Subsection 1 under Section 1 “Permitted Uses” to read as follows:**

“1. Accessory buildings and uses clearly incidental to the principal use of the above permitted uses including small scale livestock activities subject to the applicable requirements of Section 633 of this Ordinance and accessory solar energy systems (ASES) subject to the applicable requirements of Section 637.1 of this Ordinance when the accessory building and/or use is located on the same lot and the accessory building and/or use does not include any activity conducted as a non-agriculturally related business.”

**Section 5. Solar Energy Systems**

**Article VI “General Regulations” of the District Township Zoning Ordinance is amended by adding a new Section 637 “Solar Energy Systems” to read as follows:**

“Section 637. SOLAR ENERGY SYSTEM

For purposes of the Section, the following terms shall be defined as follows:

Facility Owner – The entity or entities having an equity or financial interest in a Principal Solar Energy System, including their respective successors and assigns.

Operator – The entity responsible for the operation and maintenance of a Principal Solar Energy System.

1. Accessory Solar Energy System (ASES)

a. ASES General Regulations.

1) An ASES is permitted by right as an accessory use in all zoning districts.

- 2) All ASES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance; however, any physical modification to an existing ASES which materially alters the ASES, whether or not existing prior to the effective date of this Ordinance, shall require approval in accordance with this Ordinance. Replacement of existing ASES components with similar materials and/or routine maintenance shall not require approval.
- 3) An ASES may be roof-mounted, wall-mounted or ground-mounted.
- 4) Design layout and installation of an ASES shall strictly conform to industry standards, including, as applicable, standards of the American Society for Testing and Materials (ASTM), American National Standards Institute (ANSI), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), Solar Rating and Certification Corporation (SRCC), and similar certifying organizations and shall comply with the PA Uniform Construction Code and all District Township codes and ordinances.
- 5) All ASES shall be designed and operated such that energy generated is primarily used for reducing on-site consumption of purchased power.
- 6) To the greatest extent possible, all ASES on-site utility and transmission lines as well as plumbing components shall be placed underground.
- 7) To the greatest extent possible, all ASES shall be designed and operated such that glare will not be concentrated onto adjacent properties and roads.
- 8) An ASES shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, balloons, flags, banners or similar materials.
- 9) Upon completion of installation, the ASES shall be maintained in good working order in accordance with the standards of the applicable, statutes, codes, ordinances and regulations under which the ASES was constructed.
- 10) An ASES that has been abandoned (meaning inoperable for a period exceeding six months) or is defective or that is deemed to be unsafe by the Township Building Code Official shall be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time allowed by the Township's Building Code Official. For ground-mounted ASES that are removed, the impacted land shall be returned to its predevelopment condition including grading and seeding where applicable. If the owner fails to remove or repair the defective or abandoned ASES, the Township may pursue legal action, including but not limited to action to have the system removed at the owner's expense.

- 11) Zoning Permit. A zoning permit shall be required prior to commencement of construction of any ASES. All zoning permits issued for an ASES shall contain the following statement:

“The issuance of this permit by District Township does not create any right to remain free of shadows and/or obstructions caused by development of adjacent or adjoining properties or growth of trees or vegetation on such properties. It is the sole responsibility of the Solar Energy System owner to obtain any solar easement necessary to guarantee unobstructed solar access by agreement with adjacent property owners. This limitation runs with the land and is binding on all successors and assigns.”

b. Roof-Mounted and Wall-Mounted ASES Regulations.

- 1) Roof-mounted and wall-mounted ASES may be mounted on a principal or accessory building.
- 2) Roof-mounted and wall-mounted ASES shall comply with the maximum building height regulations applicable to the zoning district in which the ASES is mounted.
- 3) Solar panels shall not extend beyond any portion of the roof on which the panels are mounted.
- 4) Wall-mounted ASES shall comply with the setbacks for principal buildings applicable to the zoning district in which the ASES is located.
- 5) The property owner shall provide proof from a professional engineer or architect, licensed in the State of Pennsylvania, that the roof or wall on which the ASES will be mounted is capable of bearing the additional load of the ASES.

c. Ground-Mounted ASES Regulations.

- 1) Ground-mounted ASES shall comply with the setbacks for principal buildings applicable to the zoning district in which the ASES is located.
- 2) Ground-mounted ASES shall not be located between the principal building on a property and the street line.
- 3) Ground-mounted ASES solar panels shall be considered as impervious surface for the purpose of determining the minimum required open area on a property.

- 4) Ground-mounted ASES shall not exceed twelve (12') feet in height.
- 5) The maximum permitted area of the solar panels of a ground-mounted ASES shall not exceed 2,000 square feet.
- 6) Ground-mounted ASES shall not be placed within any legal easement or right-of-way or be placed within any stormwater management system or component.
- 7) An applicant proposing to construct a ground-mounted ASES shall submit a stormwater management plan which conforms with the requirements of the District Township Stormwater Management and Earth Disturbance Ordinance as applicable. For purposes of stormwater management, ASES solar panels shall be considered as impervious surface.
- 8) For ground-mounted ASES that are removed, the impacted land shall be returned to predevelopment condition including grading and seeding where applicable.

2. Principal Solar Energy System (PSES)

a. PSES General Regulations

- 1) A PSES is permitted by conditional use in the Conservation Zoning District, subject to the terms, provisions and requirements of the District Township Zoning Ordinance, District Township Subdivision and Land Development Ordinance (SALDO), and all other applicable Township and other governmental rules, laws, regulations and ordinances.
- 2) Design, layout and installation of a PSES shall strictly conform to industry standards, including, as applicable, standards of the American Society for Testing and Materials (ASTM), American National Standards Institute (ANSI), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), Solar Rating and Certification Corporation (SRCC), and similar certifying organizations and shall comply with the PA Uniform Construction Code and all District Township codes and ordinances. Manufacturer specifications for key components of a PSES shall be submitted as part of the application for PSES.
- 3) The PSES facility owner shall provide District Township with documentation that the intent of the PSES is to connect into the existing electrical distribution system. The PSES facility owner shall further provide a copy of the final inspection report or other utility company

approval to District Township prior to issuance of a certificate of use and occupancy relative to the PSES.

- 4) To the greatest extent possible, all PSES on-site utility and transmission lines shall be placed underground.
- 5) Anti-glare/anti-reflective coating shall be required on all PSES solar panels.
- 6) The PSES facility owner shall provide a study, prepared by a professional engineer licensed in the State of Pennsylvania, which documents that a PSES shall be designed and placed such that concentrated solar radiation or glare does not project onto nearby structures, roadways or beyond the boundaries of the parcel on which the PSES is situated.
- 7) No portion of the PSES shall contain or be used for display of advertising; however, manufacturing name and/or equipment information/ownership indicators shall be allowed on any PSES equipment provided such signage complies with District Township sign regulations.
- 8) No trees or other landscaping features otherwise required by District Township ordinances or attached as a condition of approval of any plan, application or permit shall be removed for installation or operation of a PSES.
- 9) For purposes of communications and emergency preparedness, the PSES facility owner and operator shall maintain a designated point of contact, including name, mailing address, and phone number of the individual responsible such that the public are afforded the opportunity to contact with inquiries and/or complaints through the life of the PSES project, and such contact information shall be provided to District Township and updated when changed. At all times, the PSES facility owner and operator shall be responsible for ensuring the designated point of contact for the PSES is immediately available to respond to emergencies, and able to otherwise timely respond to inquiries and/or complaints. The Township shall be notified in writing of any change of facility owner or operator of a PSES.
- 10) A PSES facility owner and/or operator proposing to construct a PSES shall submit a land development plan which conforms with the requirements of the District Township Subdivision and Land Development Ordinance.
- 11) A PSES facility owner and/or operator proposing to construct a PSES shall submit a stormwater management plan which conforms with the requirements of the District Township Stormwater Management and Earth

Disturbance Ordinance as applicable. For purposes of stormwater management, PSES solar panels shall be considered as impervious surface.

- 12) The installation of a PSES shall be in compliance with all applicable permit requirements, codes and regulations. The PSES facility owner and/or operator shall repair, maintain, and replace the PSES and related solar equipment during the term of the project in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.
- 13) All PSES facility owners and/or operators shall properly maintain all panels, structures, and equipment at all times in a manner that does not adversely affect adjacent properties or the community. Any repairs or replacements shall be promptly undertaken to maintain or replace the existing facilities consistent with the original design. District Township shall have the right but is not obligated to issue notice requiring repairs to a PSES. If such notice is issued, repairs shall be completed within 60 days of the date of the notice.
- 14) All PSES facility owners and/or operators shall prepare a fire prevention and contingency plan of emergency procedures consistent with standard operating practices of the industry. The plan shall be furnished to District Township, the applicable local fire company, and the Berks County Department of Emergency Services. The plan shall be submitted as part of the land development plan application for the PSES. The same shall be subject to review and update every five (5) years during the term of the PSES project.
- 15) District Township reserves the right but not the obligation to inspect a permitted PSES to ensure compliance with the provisions of this Ordinance, any other District Township ordinances and related approvals. District Township and/or its agents shall have the authority to enter the property upon which the PSES is located at any time, upon reasonable advance notice to the PSES facility owner and/or operator, to ensure such compliance.
- 16) District Township reserves the right but not the obligation to hire any consultant(s) and/or expert(s) necessary to assist District Township in reviewing and evaluating the application for approval of the PSES, and following approval, to review and/or evaluate any potential violations of the terms of this Ordinance and related approvals. The PSES facility owner and operator shall, upon demand, reimburse District Township for all costs of District Township's consultant(s) for such expert evaluation and consultation for this purpose.

- 17) Zoning Permit. A zoning permit shall be required prior to commencement of construction of any PSES. All zoning permits issued for a PSES shall contain the following statement:

“The issuance of this permit by District Township does not create any right to remain free of shadows and/or obstructions caused by development of adjacent or adjoining properties or growth of trees or vegetation on such properties. It is the sole responsibility of the PSES facility owner to obtain any solar easement necessary to guarantee unobstructed solar access by agreement with adjacent property owners. This limitation runs with the land and is binding on all successors and assigns.”

b. Ground-Mounted PSES Regulations

- 1) The minimum lot size (as defined by the District Township Zoning Ordinance) for the installation of a PSES shall be twenty (20) acres.
- 2) The maximum height of the solar panels of a ground-mounted PSES shall not exceed fifteen (15) feet above the ground at maximum tilt. Buildings associated with a PSES shall comply with the maximum building height requirements of the zoning district in which the PSES is located.
- 3) All solar energy related components of a ground-mounted PSES shall comply with the following minimum setbacks:
  - a) Front Yard – 100 feet
  - b) Side Yard – 75 Feet
  - c) Rear Yard – 75 Feet
  - d) Structure on an Adjoining Property – 100 Feet
- 4) The maximum area of the tract utilized for a ground-mounted PSES, meaning the area of solar panels, equipment, roads or paths and other items affixed to the ground which are part of or used in the operations of the PSES, shall not exceed twenty (20) percent of the gross tract area.
- 5) No more than twenty (20) percent of the entire area for development (including area between solar panels and other facilities) of a PSES shall consist of Class I and Class II prime agricultural soils as defined by the current version (at time of proposed development) of the National Resources Conservation Service (NRCS) Soil Resource Survey.
- 6) A ground-mounted PSES shall be completely enclosed by fencing at least eight (8) feet in height with locking gates. The PSES shall include clearly

visible warning signage placed on the fence surrounding the PSES which informs individuals of potential voltage hazards.

- 7) Landscape screening shall be installed along all sides of a ground-mounted PSES between the property lines and the required fence surrounding the PSES. Said screening shall include two staggered rows of evergreen trees, a minimum of six (6) feet tall at the time of planting, placed ten (10) feet on center.
- 8) Ground-mounted PSES shall not be located in:
  - a) Special flood hazard areas as identified in the FEMA FIRM mapping.
  - b) Zone 1 and Zone 2 Riparian Buffers as defined by the District Township Subdivision and Land Development Ordinance.
  - c) Wetlands.
  - d) Wetlands buffer, which shall extend twenty-five (25) feet from any wetland.
  - e) Slopes in excess of fifteen (15) percent.
  - f) Legal easements and rights-of-way.
  - g) Setback areas as defined by this Section.
- 9) On wooded lots, the maximum area that may be cut and cleared for the installation of a ground-mounted PSES is thirty (30) percent of the existing wooded areas of the lot.
- 9) For a ground-mounted PSES that is removed, the impacted land shall be returned to predevelopment condition including grading and seeding where applicable.
- 10) An access drive, with a minimum width of twenty (20) feet shall be provided from a public road onto the PSES site. Access drives, with a minimum width of fifteen (15) feet, shall be provided between solar arrays for maintenance and emergency management vehicles.
- 11) A parking area shall be provided for maintenance purposes adjacent to any building or structure of a PSES.
- 12) Solar grazing is encouraged as a preferred method of controlling ground cover within a ground-mounted PSES.
- 13) Agrivoltaics are permitted provided that:
  - a) Only shade tolerant crops may be used.
  - b) No-till application is required, plowing is prohibited.

- c) Cutting or mowing is limited to a height of no less than four (4) inches.
- d) Application of chemical fertilization or herbicides/pesticides is limited to the agronomic needs of the crops.

c. Roof-Mounted PSES Regulations

- 1) Roof-mounted PSES may be mounted on a principal or accessory building.
- 2) Roof-mounted PSES shall comply with the maximum building height regulations applicable to the zoning district in which the PSES is located.
- 3) Solar panels shall not extend beyond any portion of the roof on which the PSES panels are mounted.
- 4) The PSES facility owner and/or operator shall provide proof from a professional engineer or architect, licensed in the State of Pennsylvania, that the roof on which the PSES will be mounted is capable of bearing the additional load of the PSES.

d. Decommissioning of PSES

- 1) As part of the land development plan associated with the PSES facility, the PSES facility owner and/or operator shall make provision for decommissioning the PSES and shall enter into an agreement with the Township and provide financial security in the form of a letter of credit or bond, in form and substance reasonably satisfactory to the Township in accordance with the provisions below. The agreement shall be recorded in the Berks County Recorder of Deeds Office, shall run with the land and shall remain in effect until full compliance with its terms. The costs and expenses regarding decommissioning shall be at the sole cost and expense of the PSES facility owner and/or operator and its successors or assigns.
- 2) The obligation to decommission shall arise upon the occurrence of any of the following: i) within six (6) months after the end of the useful life of the PSES; or, ii) at any time if notice of intent from the surety or bank is received regarding termination or removal of the financial security. The PSES will be presumed to be at the end of its useful life if no electricity is generated for off-site or commercial production and distribution for a period of six (6) months.

- 3) Decommissioning shall include removal of the PSES, cabling, electrical components, roads, foundations, and any other associated facilities.
- 4) All equipment, materials, panels, and components shall be removed and disposed of in accordance with all then applicable health, safety, and environmental statutes, regulations, and ordinances. Disturbed earth shall be graded and re-seeded, and reseeded re-established unless the landowner requests in writing that the access roads, storm water facilities or other land surface areas not be restored.
- 5) If the landowner elects to retain access roads, stormwater management facilities or other land surface areas existing at the time of decommissioning, the Township shall be notified that the landowner has assumed full liability and responsibility for compliance with all applicable statutes, regulations, and ordinances.
- 6) An independent Professional Engineer, licensed in the State of Pennsylvania, shall be retained by the PSES facility owner, at its sole cost, to estimate the total cost of decommissioning the PSES without regard to any salvage value of the equipment (“Decommissioning Cost”). The estimate of the decommissioning cost shall be reviewed and approved by the Township. The PSES facility owner shall provide financial security in the amount of 110% of the approved decommissioning cost estimate.
- 7) The Township may request updated decommissioning costs estimates annually in accordance with the Pennsylvania Municipalities Planning Code. Regardless of any such request, the PSES facility owner and/or operator shall submit to the Township for review and approval revised decommissioning cost estimates every five (5) years during the entire life of the PSES facility. The revised cost estimates shall be reviewed and approved by the Township. The PSES facility owner shall adjust the financial security in accordance with the approved cost estimate every five (5) years. In addition, at any time when ownership or operation of the PSES facility is transferred, decommissioning cost estimates shall be provided, and any subsequent PSES facility owner and/or operator shall affirmatively acknowledge the decommissioning obligation set forth herein.
- 8) Decommissioning financial security may be in the form of a letter of credit from a bank doing business in the Commonwealth of Pennsylvania and with offices within Berks County, performance bond, surety bond, or other form

of financial security that is reasonably acceptable to the Township. Financial security and the related agreement shall be in place at the time of and as a condition of final land development plan approval.

- 9) In the event the PSES facility owner and/or operator violates the terms of the agreement including but not limited to complete decommissioning of the facility within the period required, the Township may but is not obligated to draw on the financial security and enforce the agreement. Notwithstanding anything to the contrary, the PSES facility owner and operator remain jointly and severally liable and responsible for all costs, expenses and fees, arising out of or in any way relating to the removal of the PSES facilities, including Township costs, consultant fees, and legal fees.
- 10) Upon removal of the PSES and compliance with the agreement, the Township shall release the financial security when the PSES facility owner and/or operator has satisfactorily completed the decommissioning plan.

**Section 6. Severability**

In the event that any provision, section, sentence, clause or portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of District Township that the remainder of this Ordinance shall be and remain in full force and effect notwithstanding the fact that such portion thereof shall be invalid or unconstitutional.

**Section 7. Repealer**

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are in direct conflict with this ordinance, but this ordinance is intended to be interpreted consistently with all other health, safety and regulatory statutes and ordinances and provide additional remedies where possible.

**Section 8.      Effective Date**

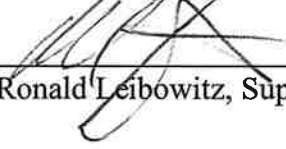
This Ordinance shall take effect five (5) days after the date of enactment.

ORDAINED and ENACTED as an Ordinance of District Township, Berks County, Pennsylvania, in lawful session duly assembled this 20<sup>th</sup> day of February, 2025.

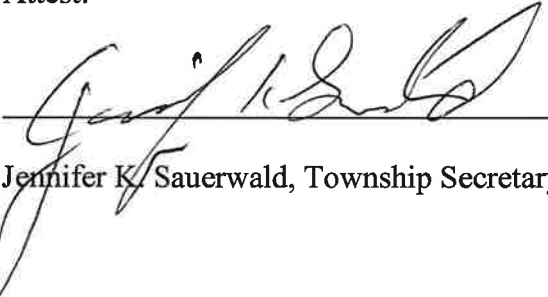
DISTRICT TOWNSHIP BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Ed Overberger, Chairman

\_\_\_\_\_  
Leonard Robb, Vice-Chairman

  
\_\_\_\_\_  
Ronald Leibowitz, Supervisor

Attest:

  
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Jennifer K. Sauerwald, Township Secretary