

ORDINANCE NO. 2022 - 02

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MOUNT JOY, ADAMS COUNTY, PENNSYLVANIA, CHAPTER 110, ZONING, TO AMEND THE DEFINITION OF ACCESSORY USE; ADD DEFINITIONS FOR COMMUNITY SOLAR FACILITY, SOLAR ENERGY SYSTEM ACCESSORY USE, SOLAR ENERGY SYSTEM PRINCIPAL USE, SOLAR PANEL, AND SOLAR RELATED EQUIPMENT; AMEND THE TABLE OF USES TO PROVIDE FOR THE DEFINED PRINCIPAL AND ACCESSORY SOLAR USES BY ZONING DISTRICT AND AS PERMITTED OR CONDITIONAL USES; AND TO AMEND SECTION 402 SPECIFIC REQUIREMENTS FOR COMMUNITY SOLAR FACILITY AND SOLAR ENERGY ACCESSORY USES AND SOLAR ENERGY SYSTEM PRINCIPAL USE

WHEREAS, the Township desires to amend the Zoning Ordinance of Mount Joy Township to provide for various principal and accessory solar uses and applicable standards and requirements.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Mount Joy Township:

Section 1. Purpose

The purpose of this Ordinance is to amend the definition of accessory use; add and amend certain definitions relating to various principal and accessory solar uses; amend the Table of Uses to provide for various principal and accessory solar uses by zoning district and as permitted uses by right or conditional use; and to add and amend specific standards and requirements for various principal and accessory solar uses.

Section 2. Enabling Authority

This Ordinance is enacted pursuant to the enabling authority of the Pennsylvania Municipalities Planning Code, Article VI, 53 P.S. § 10609.

Section 3. Proposed Amendments to Zoning Ordinance

For amendment to current provisions:

- language to be omitted is noted as stricken.
- language to be added is noted in italics.
- *** indicates existing text within a section/subsection that is not proposed for amendment.

Following final adoption, sections will be numbered/renumbered as necessary and appropriate.

Article I General Provisions, Section 111. Definitions, subsection B. Terms and phrases defined is amended as follows:

ACCESSORY USE – A use customarily incidental and subordinate to the principal use and which is located on the same lot as the principal use, *excepting as otherwise provided in this Ordinance.*

ALTERNATIVE ENERGY SYSTEM – *Wind and solar energy generation systems. See definitions of Community Solar Facility; Solar Energy System, Accessory Use; and Solar Energy System, Principal Use.*

COMMUNITY SOLAR FACILITY, ACCESSORY USE – *An alternative energy system primarily used by existing or proposed developments of (i) one or more multi-dwelling units or residential developments or (ii) two or more non-residential uses, and sited on either the lot improved with the principal use or on a lot within or adjacent to the development.*

SOLAR ENERGY SYSTEM, ACCESSORY USE – *Alternative energy system primarily utilized by the principal use of the lot upon which it is located. See also Community Solar Facility.*

SOLAR ENERGY SYSTEM, PRINCIPAL USE – *A utility-scale system consisting of one or more freestanding ground or roof mounted solar panels, solar related equipment and accessory structures and buildings, including but not limited to, light reflectors, concentrators, heat exchangers and substations, and used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power for off-site use(s).*

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 power.*

SOLAR RELATED EQUIPMENT – *Solar photovoltaic cell, module, panel or array; solar hot air or water collector device panels, lines, pumps, inverters, batteries, storage facilities, mounting brackets, framing and other structural foundations.*

Article III General Requirements, Section 301 Table of Uses is amended as follows:

The following Table of Uses identifies those principal and accessory uses in the Township that are permitted by right, permitted as a conditional use or permitted as a special exception, and ~~those~~ those that are prohibited.

P = Permitted by Right *Use*

CU = Permitted as a Conditional Use

SE = Permitted as a Special Exception

(A) = Accessory Use

= Prohibited *Use*

Delete from the Table of Uses the alternative energy system accessory use.

Add to the Table of Uses the community solar facility accessory use as a conditional use in the AC, OC and BPC Districts and a permitted use in the BPC-O District.

Amend the Table of Uses to remove solar energy system use as a permitted use in the AC District and to provide for the use as a conditional use in the BPC-O District.

Amend the Table of Uses to provide for the solar energy system accessory use as a permitted use in the AC, OC, BPC and BPC-O Districts.

Article IV Specific Requirements, Section 402 Specific requirements, subsection D
Alternative energy system as accessory use is amended as follows:

- (2) Alternative energy systems, *including accessory wind systems and Community Solar Facility and Solar Energy System accessory uses*, shall be primarily utilized by the principal use of the lot upon which it is located. ~~and~~ Energy generated must first be used to meet the demand on site. Surplus energy may be exchanged, transferred and/or sold to a public or private utility company if the applicant submits written expert documentation *demonstrating* that the proposed alternative energy system is *principally designed to serve the principal use of the lot*, not to exceed the following energy generating parameters:

- b. The maximum energy generated for a commercial, *manufacturing or institutional* use shall not exceed 2.0 times the annual energy needs of the principal commercial use upon whose site the alternate energy system is located.
- ~~e. The maximum energy generated for a manufacturing use shall not exceed 3.0 times the annual energy needs of the consumer of the principal use upon whose~~

~~site the alternate energy system is located.~~

~~d. The maximum energy generated for a governmental, school, hospital, church and/or other similar institutional use shall not exceed 4.0 times the annual energy needs of the consumer of the principal use upon whose site the alternate energy system is located.~~

- (3) The owner of any alternative energy system connected to an electric utility grid shall, *prior to the start of operations*, provide the Township with written authorization from the utility acknowledging and approving such connection.
- (4) Alternative energy systems may be erected as detached accessory structures or attached to a building provided that, *except as otherwise provided*, the structural components of such systems shall meet the setback, and lot occupancy and height requirements of the zoning district. ~~and do not exceed the permitted height requirements of the zoning district in which it is located except that:~~

- (b) Ground-mounted solar panels shall not exceed a height of ~~20~~ 12 feet at the highest point of the structure;
- (c) the maximum height of a freestanding wind turbine and any supporting structure shall be 50 feet for non-agricultural uses and 150 feet for agricultural uses, as measured from the ground surface to the tip of the blade at its highest turning movement; *and the maximum height of a roof-mounted wind turbine and any supporting structure shall be ten feet (as measured from the highest roof surface to the tip of the blade at its highest turning movement). Neither turbine nor blade shall be of such size or height as to create shadow flicker.*

- (5) Above-ground alternative energy systems shall be clear-coated, transparent, and/or be designed with a nonobtrusive color such as white, off-white or gray. *Solar energy panels and support structures shall be constructed of non-reflective materials. . . .*

- (11) ~~An accessory solar energy system~~ *community solar facility and ground mounted solar energy system* shall comply with the following *additional* requirements:

[new subsection] *An application for zoning permit shall include a site plan:*

- i. *showing all lot lines; adjacent lots, their owners, improvements and easements; existing and proposed on-site improvements; adjacent public roads and private streets; utility rights-of-way and lines; and easements;*
- ii. *depicting the system and its principal components including, but not limited to related ancillary facilities and structures. Such information shall be depicted upon the site plan even if it is located underground; and*
- iii. *demonstrating compliance with requirements of this Section and all other applicable requirements of this Ordinance, including but not limited to the requirements of the zoning district in which located.*

- (a) *Solar energy panels and support structures shall be constructed of non-reflective materials designed and located in order to minimize reflective glare towards any adjacent lot or street.*
- ~~(b) All solar energy system installations must be certified by a professional firm from a list of approved solar electric installers provided on the PA Sunshine Program website operated by the PA Department of Environmental Protection or from the North American Board of Certified Energy Practitioners.~~
- (c) *There Solar energy systems shall not be used for no displaying advertising except for reasonable identification of the manufacturer of the system. In no case shall such identification exceed 200 144 square inches.*

- ~~(g) Ground-mounted solar energy systems shall comply with the following requirements:~~

~~[1] Ground-mounted solar energy systems (also referred to as "ground arrays") shall be located so that any sun reflection is directed away from or is properly screened from an adjacent lot.~~

~~[2] The surface area of a ground-mounted solar energy system, regardless of the mounted angle of any solar panels, shall be considered part of and calculated in the lot coverage of the lot on which the system is located. The surface area of a ground-mounted solar energy system shall not exceed three percent of maximum lot coverage of the lot 2 acres. For panels that self-adjust, the lot coverage of each solar panel shall be calculated at that angle with the greatest horizontal exposure.~~

[new section] *The community solar facility shall be no closer than 250 feet from the lot line of an adjacent lot improved with a dwelling or an unimproved lot in a residential zoning district; provided that the setback shall not apply to a shared property line of properties hosting a single solar energy system.*

[new section] *Owners of a lot upon which a ground-mounted system is installed shall be*

required, as a condition of the issuance of the zoning permit, to acknowledge in writing to the Township that the issuance of a zoning permit shall not and does not create in the lot owner, its, his, her or their successors and assigns in title or, create in the lot itself:

- i. the right to remain free of shadows and/or obstructions to solar energy caused by development of an adjacent lot or the growth of any trees or vegetation on such lot; or,*
- ii. the right to prohibit the development of, or growth of any trees or vegetation on, an adjacent or nearby lot.*

Article IV Specific Requirements, Section 402 Specific requirements, subsection II. Solar energy system is amended as follows:

Solar energy system. Where permitted, a solar energy system principal use shall meet the following requirements:

(1) ~~Definitions. The following definitions apply to the solar energy system use:~~

~~SOLAR ENERGY SYSTEM, PRINCIPAL—A system consisting of one or more freestanding ground or roof mounted solar panels, solar related equipment, and accessory structures and buildings including but not limited to light reflectors, concentrators, heat exchangers, and substations, and used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power for off-site use(s).~~

~~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 power.~~

~~SOLAR RELATED EQUIPMENT—Solar photovoltaic cell, module, panel or array; solar hot air or water collector device panels, lines, pumps; batteries, ; mounting brackets, framing and other structural foundations.~~

(2) Application for zoning permit for the solar energy system shall include:

(a) A site plan:

- [1] Showing all lot lines; adjacent lots, their owners, improvements and easements; ~~and~~ existing and proposed on-site improvements; *adjacent public roads and private streets; utility rights-of-way and lines; and easements;*

- vi. ~~demonstrating compliance with Chapter 81 Stormwater Management of the Code of the Township of Mount Joy.~~

[new section] *depicting the system and its principal components including, but not limited to related ancillary facilities and structures. Such information shall be depicted upon the site plan even if it is located underground; and*

[new section] *demonstrating compliance with requirements of this Section and all other applicable requirements of this Ordinance, including but not limited to the requirements of the zoning district in which located, parking, landscaping and signage.*

- (b) Glare analysis demonstrating, through *components design*, siting or mitigation measures, that any glare produced by the solar energy system will not have an adverse impact.
- (c) Manufacturer specifications for the key components of the solar energy system, *including written confirmation of compliance with a recognized industry standard, rating and/or certification, including but not limited to, Underwriters Laboratories (UL) and Solar Rating and Certification Corporation (SRCC).* If not available at the time of submission of the application, this information shall be submitted at the time of application for a building or electric permit (where required and whichever is submitted first) or 30 calendar days prior to the start of site development, whichever occurs first.

- (e) ~~Written confirmation that a certified installer is listed on the Pennsylvania Department of Environmental Protection's approved solar installer list or demonstrated equivalent will install the solar energy system and Prior to start of development, The applicant shall identify the installer(s) of solar panels in a writing submitted to the Township no later than 30 days in advance of the start of installation.~~
- (f) Any written solar easements existing or intended to be entered prior to the issuance of the zoning permit. *Note: The zoning permit for the solar energy use does not create or establish any rights to remain free of shadows or obstructions caused by use and development of adjacent lots, including growth of natural vegetation or planting and growth of landscaping. The issuance of the zoning permit does not create or establish any obligation or right of the Township to enforce private solar easements submitted with the application.* [italics in current ordinance for emphasis of existing language]

[new section] *An incident response plan prepared in consultation with fire and emergency medical services providers serving the area of the proposed use.*

[new section] *A decommissioning plan including the following:*

- i. anticipated life of the solar energy system;*
- ii. defined conditions under which decommissioning will be initiated (e.g. expiration of land lease; intent to abandon; etc.);*
- iii. description of structures, equipment and materials to be removed;*
- iv. description of the manner of disposal of structures, equipment and materials, including disposal of any hazardous waste;*
- v. description of activities for the restoration of property to pre-development condition;*
- vi. estimated decommissioning cost without regard to salvage value of the materials and equipment;*
- vii. identification of entity responsible for decommissioning and acknowledgment of requirement for written notice to Township 60 days in advance of a change in project ownership/decommissioning responsibility; and*
- viii. proposed amount and proposed form of performance security.*

Upon acceptance by the Board of Supervisors, the decommissioning plan shall be recorded with the Recorder of Deeds.

- (3) The solar energy system ~~shall meet minimum lot size requirement is minimum lot size of the zoning district or two acres, the zoning district or two acres, whichever is larger, 100 acres excluding:~~

- i. property listed on or eligible for the National Register of Historic Places;*
- ii. floodplains and wetlands, except to extent permitted under federal or state law;*
- iii. area within 25' of the center-line of a natural and man-made drainage corridor;*
- iv. area within 50' from a designated wetland, except to extent permitted under federal or state law;*

- v. *slopes greater than 15%;*
- vi. *areas of Class I and II agricultural soils;*
- vii. *wooded areas;*
- viii. *road rights-of-way;*
- ix. *setbacks; and*
- x. *unique ecological feature identified in the Pennsylvania Natural Diversity Inventory.*

[new section] *Solar energy panels and support structures shall be constructed of non-reflective materials.*

[new section] *Ground-mounted solar panels shall not exceed a height of 12 feet at the highest point of the structure.*

- (4) The solar energy system shall be no closer than ~~50~~ 250 feet from the lot line of an adjacent lot improved with a dwelling or an unimproved lot in a residential zoning district.
- (5) The solar energy system shall be enclosed with a ~~minimum eight foot high~~ fence not exceeding eight feet in height with a self-locking gate. *The fence shall maintain a minimum ground clearance of six inches.*
- (6) An access drive meeting the requirements of Chapter 86 (Subdivision and Land Development) of the Code of the Township of Mount Joy shall be provided *prior to development of the property for the proposed use. The access drive shall be a minimum width of 25 feet from the intersection with the public road to the required fence line.* The interior of the solar energy system shall be improved with interior travel aisles *with a minimum width of 15 feet and sufficient in location, ~~dimension~~ and construction to allow access by maintenance vehicles and emergency management vehicles.*

[new section] *The solar energy systems shall not be used for displaying advertising except for reasonable identification of the manufacturer of the system. In no case shall such identification exceed 144 square inches.*

- (11) The buffer shall be planted to establish a visual screen meeting the following requirements:

[new subsection to be inserted after existing subsection (b)] *10% of the lot area of the solar energy facility, excluding a required buffer, shall be planted in native vegetation that attracts pollinators.*

[new subsection to be inserted after existing subsection (e)] *Required buffers shall be planted before installation of solar panels.*

- (f) *On-site utility facilities, including but not limited to transmission lines, shall be placed underground to the maximum extent feasible.*
- (g) *Layout, design and installation of the solar energy system shall conform to applicable industry standards as exist at the time of application (layout and design) or development (installation), including American National Standards Institute (ANSI), Underwriters Laboratories (UL), American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), and Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL) or other similar certifying organizations existing at such time, and shall conform to the Pennsylvania Uniform Construction Code.*
- (h) *The solar energy system shall at all times be maintained and kept in good working order and repair.*
 - i. Broken panels shall be removed within 48 hours of breakage.*
 - ii. A maintenance inspection shall be conducted annually and within 48 hours after the conclusion of a storm event determined to be a tropical storm or hurricane. Such inspection shall include panel and array inspections for breakage and structural failure. A written report of the maintenance inspection shall be submitted to the Township no later than 10 business days after the inspection is conducted.*

- ~~k. Performance security in an amount sufficient to decommission the solar energy facility, in compliance with Subsection II(10)(j) above, as determined by the Township Engineer, and in an appropriate form, as determined by the Township Solicitor, shall be provided to the Township. The proposed amount and form of performance security shall be submitted with the application. The approved amount and form of performance security shall be submitted to the Township no later than the submission of the application for a building or electric permit (where required and whichever is submitted first)~~

~~or 30 calendar days prior to the start of development of the lot for the solar energy system use, whichever occurs first.~~

[new section] *Performance security to decommission the solar energy facility in the amount of \$100,000.00 per megawatt proposed to be generated by the solar energy facility and in an appropriate form, as determined by the Township Solicitor, shall be provided to the Township. Performance security may be in the form of an escrow account with a federal or Commonwealth of Pennsylvania chartered lending institution or held by the Township, an irrevocable letter of credit issued by a federal or Commonwealth of Pennsylvania chartered lending institution, or a bond issued by a bonding company authorized to conduct such business in the Commonwealth of Pennsylvania. The approved amount and form of performance security shall be submitted to the Township no later than the submission of the application for a building or electric permit (where required and whichever is submitted first) or 30 calendar days prior to the start of development of the lot for the solar energy system use, whichever occurs first.*

[new section] *Prior to the start of development, the applicant shall submit a photographic and written description prepared by a professional traffic engineer which documents the pre-construction condition of the portion of each Township road intended to be used by construction/delivery vehicles during construction of the use. Prior to the start of operations, the applicant shall submit a photographic and written description prepared by a professional traffic engineer which documents the post-construction condition of the portion of each Township road used by construction/delivery vehicles during construction of the use.*

[new section] *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.*


Section 4. Effective Date

This Ordinance shall become effective within five calendar days after the date of enactment of this Ordinance.

ENACTED this 17th day of March, 2022.

MOUNT JOY TOWNSHIP

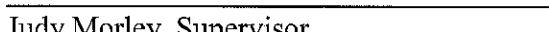
ATTEST



Shannon M. Hare, Secretary


Bernie Mazer, Chairman


Terry Scholle, Vice-Chairman

SEAL


Judy Morley, Supervisor


Todd McCauslin, Supervisor


Christine Demas, Supervisor