

BOARD OF SUPERVISORS OF WINDSOR TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 126-2024

**AN ORDINANCE OF THE TOWNSHIP OF WINDSOR, BERKS COUNTY,
PENNSYLVANIA, AMENDING THE WINDSOR TOWNSHIP ZONING ORDINANCE,
ORDINANCE NO. 80-2009, TO AMEND PROVISIONS PERTAINING TO SOLAR
ENERGY SYSTEMS IN THE TOWNSHIP OF WINDSOR**

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Windsor, Berks County, Pennsylvania (the "Township"), and it is hereby **ORDAINED** and **ENACTED** by the authority of the same as follows:

SECTION 1 – This Ordinance is enacted pursuant to the authority conferred by the Pennsylvania Municipalities Planning Code (53 P.S. Section 10101, et seq.).

SECTION 2 – The purpose of this Ordinance is to update provisions pertaining to the installation, operation and use of Solar Energy Systems, in the Township of Windsor, subject to reasonable conditions that will protect the public health, safety and welfare.

SECTION 3 – Ordinance No. 80-2009 is hereby amended such that the definition of “Lot” found in Section 201.8, shall be amended and replaced with the following:

LOT – A tract or parcel of land, regardless of size, held in single or joint ownership, not necessarily a lot or lots shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures, and accessory buildings, including such open spaces as are arranged, designed, or required. The term lot shall also mean parcel, plot, site, or any similar term. Two or more pieces of land which abut each other and have their own separate tax parcel ID numbers, even if under common ownership, shall not be considered one lot and shall be considered separate individual lots.

SECTION 4 – Ordinance No. 80-2009 is hereby amended such that the definition of “Accessory Solar Energy System” found in Section 201.8, shall be amended and replaced with the following:

ACCESSORY SOLAR ENERGY SYSTEM – Any area of land or other area used for solar collector panel(s), films(s), shingle(s) or other solar energy device(s), or structural solar component(s), including other appurtenant structures and facilities, whose primary purpose is to provide for the collection, storage and distribution of solar or radiant energy received from the sun and used for heating or cooling, or for water heating and/or for generation of electricity with an output size of not greater than ten kilowatts (10kW). Accessory solar energy systems consists of one (1) or more free-standing ground, or roof mounted solar arrays or modules, or other solar related equipment, and is intended to primarily reduce on-site consumption of utility power or fuels.

SECTION 5 – Ordinance No. 80-2009 is hereby amended such that the definition of “Commercial Solar Energy System” found in Section 201.8, shall be amended and replaced with the following:

COMMERCIAL SOLAR ENERGY SYSTEM – An area of land or other area 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. Commercial 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 or other appurtenant structures. In addition, any solar energy system, regardless of whether the system is being used for on-site or off-site purposes, which generates an output size of electricity exceeding ten kilowatts (10kW) is a Commercial Solar Energy System.

SECTION 6 – Ordinance No. 80-2009 is hereby amended such that Section 615, Solar Energy Systems (Commercial and Accessory) shall be amended and replaced with the following:

Solar Energy Systems. All Solar Energy Systems installed, operated and/or modified within the Township after the effective date of this Ordinance, shall comply with the following provisions, as applicable:

(a) The design, installation, operation and maintenance of Solar Energy Systems shall conform to applicable construction, electrical and safety industry standards, including, but not limited to, the National Electrical Code, the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and its accompanying regulations, and the Public Utility Commission’s interconnection rules and regulations.

(1) All proposed Commercial Solar Energy Systems shall coordinate with the Berks County Conservation District by way of scheduling a Pre-Application Meeting with the Berks County Conservation District and follow any other rules or procedures promulgated by the Berks County Conservation District.

(b) Commercial Solar Energy Systems shall have a minimum lot size of five (5) acres and a maximum lot coverage size of twenty-five percent (25%) of the total area of the lot upon which the Commercial Solar Energy System is to be constructed.

(c) All exterior electrical lines connecting to the solar energy system shall be buried below the surface of the ground where possible or be placed in conduit.

(d) Solar Energy Systems shall comply with the setback regulations of the underlying Zoning District. Notwithstanding setback regulations of any Zoning District the following shall also apply:

(1) No Commercial Solar Energy System shall be located within five hundred (500) feet of the property boundary line of any existing principally residential use or any other Commercial Solar Energy System

(2) All Commercial Solar Energy Systems shall have setbacks from all roads of at least one hundred (100) feet.

(e) No part of a Ground-Mounted Commercial Solar Energy System or its support structures shall exceed a height of twenty (20) feet. No part of a Ground-Mounted Accessory Solar Energy System or its support structures shall exceed a height of fifteen (15) feet.

(f) The surface area of any ground-mounted system, regardless of the mounted angle of any portion of the system, is considered impervious surface and shall be calculated as part of the lot coverage limitations for the underlying zoning district. If the ground-mounted system is mounted above existing impervious surface, it shall not be calculated as part of the lot coverage limitations for the zoning district.

(g) Ground-Mounted Solar Energy Systems shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(h) No ground mounted solar energy system shall be installed between a principal building/use and the street right-of-way. In the industrial district, the Township, upon a proper application for conditional use, if applicable, may permit the installation of a ground mounted solar energy system between the principal building/use and the street right-of-way.

(i) All mechanical equipment of Solar Energy Systems, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.

(j) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. No display advertising on any of the Solar Energy System equipment shall be permitted except for reasonable identification of the manufacturer of the system.

(1) All Commercial Solar Energy Systems shall have a minimum of one (1) sign at each of their ingress/egress points displaying the name of the owner/operator of the system, phone numbers for reporting emergencies arising from the system, and phone numbers to be used for public inquiry and non-emergency complaints regarding the system. The text used on such signage shall use a font with characters at least three (3) inches in height.

(k) Solar Energy Systems mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district. Roof and wall mounted installations shall be permitted only upon submission by Applicant of evidence, satisfactory to the Township, from a professional engineer that the roof and/or wall is capable of holding the load of a solar energy system.

(l) Height restrictions for roof mounted solar energy systems are as follows:

(1) On a sloped roof facing the front yard the system shall be installed at the same angle as the roof on which it is installed with a maximum distance of eighteen (18) inches from the roof. On the other sides of the roof the highest points of the system shall not exceed the highest points of the roof to which it is attached.

(2) On a flat roof the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached and may require a screen.

(m) No roof mounted solar energy system shall overhang a building's roof edges and shall be set back at least three (3) feet from the roof edge.

(n) Solar Energy Systems shall be located on a building, lot, or parcel in a manner that avoids directing concentrated solar radiation or glare onto any adjacent property or public way.

(o) A Commercial Solar Energy System, and all materials, structures, and accessory equipment installed with that system, that has not been in use for commercial generation purposes for six (6) months, shall be removed completely within ninety (90) days of the issuance of an enforcement action. The Township may require evidence of energy production upon request. Within one hundred eighty (180) days following the complete removal of the Commercial Solar Energy System, the site shall be cleaned, restored (including the restoration of soil) and re-vegetated to blend with the existing surrounding vegetation, and to prevent soil erosion and down gradient sedimentation. The removal Commercial Solar Energy System and cleaning, restoration, and re-vegetation of the site is sometimes hereinafter referred to as "Decommissioning."

(1) Before construction of a Commercial Solar Energy System commences, the landowner, applicant, or owner of the Commercial Solar Energy System shall post to the Township a bond or other financial security in a form acceptable to the Township at the time of zoning approval to cover the cost of Decommissioning. An independent and certified professional engineer shall be retained by the Township (but paid for by the landowner, applicant, or owner of the Commercial Solar Energy System) to estimate the total cost of decommissioning ("Decommissioning Costs"), with such estimate to include an administrative and inflation factor of the greater of the CPI (Mid-Atlantic Northeast Region) or five percent (5%) per annum. The estimate, along with its administrative and inflation factor as aforesaid, shall be used as the amount of the bond or other financial security required hereunder. On an annual basis, the Decommissioning Costs shall be recalculated as aforesaid and, pursuant to such annual recalculation, the landowner, applicant, or owner of the Commercial Solar Energy System shall provide additional security to maintain fully sufficient coverage for the Decommissioning Costs. The landowner, applicant, or owner of the Commercial Solar Energy System shall keep all security herein described in place until the Decommissioning has been fully completed. The recalculation of Decommissioning Costs shall be completed by an independent certified professional engineer retained by the Township. Any costs, including the fees charged by such engineer, shall be reimbursed to the Township by the landowner or owner of the Commercial Energy System.

(2) If neither the landowner, applicant, nor owner of the Commercial Solar Energy System complete Decommissioning within the required periods for same, then the Township may take such measures as necessary to complete Decommissioning. To enable the Township to take such measures, the landowner, applicant, and owner of the Commercial Solar Energy System shall enter into an agreement with the Township providing the Township with full authority to take all actions needed to complete Decommissioning, including the right to dispose of and sell all materials, structures, and accessory equipment located on the site. To the extent the Township incurs costs to rightfully perform any act in furtherance of Decommissioning, including the costs of annual recalculation of such costs, it may draw on the financial security to pay for all costs and expenses. If the Decommissioning costs and expenses

are greater than the financial security, then the Township may charge the landowner and/or facility owner for the excess costs and expenses, including reasonable attorneys' fees for collection, and such amounts shall be a special assessment against the property and shall constitute a municipal lien on the property for the amount of the assessment plus an additional penalty of 10% of the assessment.

(3) Before construction of a Commercial Solar Energy System commences, the landowner, applicant, or owner of the Commercial Solar Energy System shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of five million (\$5,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of five million (\$5,000,000.00) dollars per occurrence for any such occurrences arising out of the construction, operation, and decommissioning of the Commercial Solar Energy System. The Certificate of Insurance shall name the Township as an Additional Insured. The landowner, applicant, or owner of the Commercial Solar Energy System shall provide the Township with proof of annual renewal prior to expiration.

(p) The landowner and/or applicant shall provide a copy of the project summary and site plan to local emergency services including fire companies and ambulance services providing services in Windsor Township and the Township Emergency Services Coordinator. The site plan shall include fire suppression apparatus or equipment for controlling key potential fire areas. The site plan shall include means of access to all areas of the Commercial Solar Energy System which are satisfactory to local emergency service providers. If requested by the Township, the landowner and/or applicant shall cooperate with local emergency service providers and the Berks County Department of Emergency Services to develop and coordinate implementation of an emergency response plan for the Solar Energy System. If requested by the Township, the landowner and/or applicant shall conduct on-site solar energy / solar panel and associated solar related equipment safety training for local firefighters and emergency responders for preparedness training as related to fire incidents which can arise from the commissioning, energizing, activating, operating, deactivating, and decommissioning of the Solar Energy System.

(q) If deemed necessary by the Zoning Officer, the landowner and/or applicant shall provide the Township written confirmation, satisfactory to the Township, that the public utility company to which the solar energy system will be connected has been informed of the customers intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

(r) A zoning permit shall be required prior to the commencement of any construction related to a solar energy system project. Prior to the issuance of a zoning permit the Applicant shall acknowledge, in a writing satisfactory to the Township, that the issuance of said permit for a solar energy system shall not and does not create in the property owner, successors and assigns, entitle or create, in the property itself:

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

(2) The right to prohibit the development or growth of any trees or vegetation on such property. Further, it is the sole responsibility of the solar energy system owner to obtain any solar easement necessary to guarantee unobstructed solar access by civil agreement with adjacent property owners.

(3) As part of the permit application, the Applicant shall submit to the

Township a horizontal and vertical drawing depicting the location of the system on the building or property, including property lines. Applications for roof and/or wall mounted solar energy systems shall be accompanied by an engineer certification that the roof has the structural sufficiency to hold the weight of the system.

(s) For any Commercial Solar Energy System project, in addition to complying with the hereinabove supplementary regulations, the applicant shall submit a land development plan to be reviewed in accordance with the Windsor Township Subdivision and Land Development Ordinance, as amended.

(t) All zoning permit applications for solar energy systems will be reviewed in accordance with the Subdivision and Land Development Ordinance with respect to potential historical resource impacts, where applicable.

(u) Screening for Commercial Solar Energy Systems. All mechanical equipment of Commercial Solar Energy Systems, including any structure for batteries or storage cells, shall be screened from view from the adjoining properties by a buffer zone of a minimum of fifty (50) feet between said site and improvements, and any adjoining property, and in this buffer zone shall be placed a screen consisting of a variety of evergreen trees in a solid double row with minimum height of eight (8) feet or an earthen berm with a minimum height of eight (8) feet so as to create a visual screening of said site and improvements from all adjoining properties.

(1) The screening required of any Commercial Solar Energy System shall be fully in place before any construction of the Commercial Solar Energy System commences.

(2) A maintenance agreement shall be in effect to memorialize a maintenance schedule for the screening, including standards for pruning, watering and fertilizing the screen as needed. The maintenance agreement shall also include provisions for the replacement of any dead screening.

(v) Screening for Accessory Solar Energy Systems. All mechanical equipment of Accessory Solar Energy Systems, including any structure for batteries or storage cells, shall be provided with screening in accordance with the provisions of the Code of Ordinances of the Township of Windsor, if applicable.

(w) Construction, Maintenance, and Testing for Commercial Solar Energy System Projects.

(1) During the construction, existence, and decommissioning of any Commercial Solar Energy System, the owner of the Commercial Solar Energy System shall conduct water testing once per year on any stream located on the premises or any stream within five hundred (500) feet of the site. Test samples shall be acquired upstream and downstream of the site so that the impact of the construction, existence, and decommissioning of the Commercial Solar Energy System can be determined. The samples shall be analyzed by a certified water analysis laboratory, selected by the Township, for cadmium, cadmium telluride, lead, copper, aluminum, hydrocarbons and other parameters deemed appropriate by the Township. The test results shall be provided to the Township. All costs for water testing shall be borne by the owner of the Commercial Solar Energy System.

(i) If said samples contain levels of the aforesaid substances exceeding the limits established by the Pennsylvania Department of Environmental Protection, the Commercial Solar Energy System shall cease operation until such time as the source of the contamination has been identified and corrected in accordance with DEP requirements.

(ii) If a Commercial Solar Energy System suffers from a fire or from an incident resulting in damage or destruction to the equipment of the Commercial Solar Energy System or to equipment being used for the construction, maintenance, operation, or decommissioning of the Commercial Solar Energy System, such incident shall be reported to the Township no later than seventy two (72) hours from occurrence; and the Township may direct the owner of the Commercial Solar Energy System to conduct water testing to determine the impact of such fire or incident and the Township may direct that the owner of the Commercial Solar Energy System conduct water testing at an interval more frequent than annually.

(2) Prior to the commencing of construction of any Commercial Solar Energy System, a copy of a maintenance and operation plan pertaining to the Commercial Solar Energy System, including provisions for anticipated regular and unscheduled maintenance, shall be provided to the Township.

(3) Prior to the commencing of construction of any Commercial Solar Energy System, a copy of a plan showing stormwater runoff management techniques and measures to be used during all phases of construction of the Commercial Solar Energy System and during all operational phases of the Commercial Solar Energy System shall be provided to the Township. All stormwater runoff management techniques and measures applicable to a particular phase of construction shall be in place and in working order before the commencement of that phase of construction so as to ensure that water will be effectively controlled during all phases of construction and existence of the Commercial Solar Energy System.

(4) An annual inspection report shall be prepared by an independent and certified professional engineer and submitted to the Township. The inspection report shall certify the structural soundness, proper operation, and environmental impact of the Commercial Solar Energy System. This annual inspection report shall be paid for by the owner of the Commercial Solar Energy System.

(5) In order to facilitate the eventual soil restoration of the site following the decommissioning of any Commercial Solar Energy System, the owner of the Commercial Solar Energy System shall keep all soil which is moved for the construction of the Commercial Solar Energy System on site. The soil may either be stored on site or used for earthen berms; whatever disposition is chosen by the owner shall be displayed on plans submitted for the project prior to the commencement of construction. The requirement to store soil on site or use soil for earthen berms can be waived upon a showing to the Township that neither storing the soil on site nor using the soil for earthen berms is feasible for a particular Commercial Solar Energy System project.

(6) During the construction, existence, and decommissioning of any Commercial Solar Energy System, no parking or unloading of vehicles shall occur in Township rights-of-way. Parking and unloading areas shall be depicted on plans submitted for the project prior to the

commencement of construction.

(7) Prior to the commencing of construction of any Commercial Solar Energy System, the owner of the Commercial Solar Energy System shall comply with any road bonding requirements set by the Township.

(8) Any structure to be used for the housing of batteries or storage cells for a Commercial Solar Energy System shall be situated at least five hundred (500) feet away from all property lines of the site and at least fifty (50) feet away from any structure.

SECTION 7 – SEVERABILITY - The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of Windsor Township that such Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 8 – REPEALER - All ordinances or parts of ordinances of Windsor Township conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 9 – EFFECTIVE DATE - This Ordinance shall become effective five (5) days after adoption.

DULY ENACTED AND ADOPTED by the Windsor Township Board of Supervisors, Berks County, Pennsylvania, in lawful session duly assembled this ____ day of _____, 2024.

WINDSOR TOWNSHIP BOARD OF SUPERVISORS

ATTEST:

By: _____
DAVID A. MAZAIKA, Chairman

Craig Long, Secretary
(SEAL)

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 126-2024 adopted by the Board of Supervisors of Windsor Township, Berks County, Pennsylvania at a regular meeting held on _____, 2024, pursuant to notices required by law.

Date: _____

Secretary