

**WASHINGTON TOWNSHIP
FRANKLIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 279

**ORDINANCE AMENDING THE ZONING CHAPTER OF
THE WASHINGTON TOWNSHIP CODE AND ENACTING
A NEW CHAPTER OF THE WASHINGTON TOWNSHIP
CODE RELATING TO SOLAR POWER**

WHEREAS, Section 1506 of the Pennsylvania Second Class Township Code provides the Washington 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 Board of Supervisors of Washington Township has determined that it would be in the interest and welfare of the residents of Washington Township to regulate the zoning and use of solar and wind power in Washington Township as follows:

NOW, THEREFORE, by the authority of and pursuant to the provisions of Article V of Act No. 247, as amended, of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, known as and cited as the Pennsylvania Municipalities Planning Code, and any amendments and supplements thereby, and also by the authority of the Second Class Township Code, as amended, **BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Washington Township, Franklin County, Pennsylvania as follows:

I. AMENDMENTS TO CHAPTER 360, ZONING

1. In §360-58, the following subsection (O) is added: "Solar farms, solar furnaces, and other solar collection systems 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."
2. In §360-58, the following subsection (P) is added: "Wind turbines and other wind collection systems principally used to capture wind energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use."
3. In §360-62, the following subsection (S) is added: "Solar farms, solar furnaces, and other solar collection systems 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."
4. In §360-62, the following subsection (T) is added: "Wind turbines and other wind collection systems principally used to capture wind energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use."

II. ENACTING CHAPTER 280 – SOLAR POWER

1. The following is enacted as Chapter 280 of the Washington Township Code:

“Chapter 280

SOLAR POWER

ARTICLE I

Definitions

§ 280-1. Definitions.

The following definitions shall apply to this Chapter.

Accessory Solar Energy System (ASES) – An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar system consists of one (1) or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

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

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

DEP – The Pennsylvania Department of Environmental Protection.

Principal Solar Energy System (PSES) – An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

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

Solar Array – A grouping of multiple solar modules with purpose of harvesting solar energy.

Solar Cell – The smallest basic solar electric device which generates electricity when exposed to light.

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

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

Solar Module – A grouping of solar cells with the purpose of harvesting solar energy.

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

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

ARTICLE II

Accessory Solar Energy Systems (ASES)

§ 280-2. Regulations Applicable to all ASES.

- A. Any ASES that has a power rating greater than 15kW must comply with the requirements of Article III – Principal Solar Energy Systems.
- B. Exemptions
 1. Any ASES with an aggregate collection and/or focusing area of ten (10) square feet or less is exempt from this Chapter.
 2. Any ASES constructed prior to the effective date of this Chapter shall not be required to meet the terms and conditions of this Chapter. Any physical modification to an existing ASES that materially alters the ASES shall require approval under this Chapter. Routine maintenance or like-kind replacements do not require a permit.
- C. Permit Requirements
 1. Land Use Permit applications shall document compliance with this Chapter 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.
 2. 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 otherwise detrimental to public health, safety, or general welfare.
 3. The Land Use Permit shall be revoked if the ASES 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 Chapter after the owner/operator is given notice and fails to correct the defect.

D. Decommissioning

1. 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.
2. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.
3. Any 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.

E. The layout, design, installation and ongoing maintenance shall conform to applicable industry standards and shall comply with the PA Uniform Construction Code as enforced by Washington 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.

F. Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards of the Washington Township codes under which the ASES was constructed.

G. ASES installers must certify they meet or exceed one of the following requirements:

1. A certified installer on the DEP's approved solar installer list
2. Certification by the North American Board of Certified Energy Practitioners (NABCEP).
3. 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.
4. A registered home improvement contractor with the PA Attorney General's Office.

H. All on-site utilities, transmission lines, and plumbing shall be placed underground, unless reasonable cause is provided to justify above-ground installations.

I. The owner of a grid-connected ASES shall provide Washington Township written confirmation that the public utility company to which the ASES 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.

J. No portion of the ASES 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 ASES provided they comply with the prevailing sign regulations.

K. Glare

1. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. 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.

L. Solar Easements

1. An owner of an ASES may enter into solar easements with surrounding property owners if, in the opinion of an ASES owner and/or operator, a solar easement is required.
2. Said easements shall be in writing, and copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the ASES.

M. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for an ASES, except as agreed to in writing by the applicable parties, 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:

1. 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.
2. The right to prohibit the development on or growth of any trees or vegetation on such property.

§ 280-3. Roof Mounted and Wall Mounted ASES.

- A. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
- B. ASES mounted on the roofs or walls of any building shall be subject to the maximum height regulations specified for principal and accessory buildings.
- C. Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying districts.
- D. Solar panels shall not extend beyond any portion of the roof edge.
- E. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and that the roof or wall is capable of holding the load imposed on the structure.

§ 280-4. Ground Mounted ASES.

- A. Yard Setbacks
 1. The setbacks shall be fifty (50') feet for front, rear and side setbacks.
 2. If an adjoining property has a ground mounted ASES then the setback requirement may be waived in writing by mutual agreement of the property owners.
 3. If an adjoining property is used as a PSES then there is no setback requirement along the border with that property.
- B. Height: Freestanding ground mounted ASES are subject to specified maximum accessory structure height, if any.
- C. Impervious Coverage
 1. The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations.
 2. The applicant shall submit a Storm Water Management Plan that demonstrates compliance with Chapter 295, Stormwater Management, of the Washington Township Code.
- D. Screening: Ground mounted ASES shall be screened from adjoining uses. The screening shall consist of coniferous and/or deciduous trees and shall be planted in such a manner that they will reasonably 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. However, if an adjoining property is used as a PSES or has ground mounted ASES, or if the adjoining property owner excuses the screening requirement in writing, then the screening requirement shall not apply.
- E. 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.
- F. Ground mounted ASES shall not be placed within any legal easement or right-of-way location, or 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.

ARTICLE III
Principal Solar Energy System (PSES)

§ 280-5. Regulations Applicable to all PSES.

- A. Exceptions: PSES constructed prior to the effective date of this Chapter shall not be required to meet the terms and conditions of this Chapter. Any physical modifications to an existing PSES, whether or not existing prior to the effective date of this Chapter that

materially alters the PSES, shall require approval under this Chapter. Routine maintenance or like-kind replacements do not require a permit.

B. Permit Requirements

1. PSES shall comply with Chapters 310, Subdivision and Land Development, and 360, Zoning, of the Washington Township Code, including the submission and approval of a Land Development Plan and conditional use approval. Any installation of a PSES shall be in compliance with all applicable permit requirements, codes, and regulations.
2. Land Use Permit applications shall document compliance with this Chapter and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept either on the premises where the PSES is constructed or at a centrally located permit posting site in the Township. Permits shall be posted throughout the duration of the construction activities.
3. 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.

C. No trees or other landscaping required under the Township code or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES without being replaced. However, trees or landscaping required by the Township Code or approval conditions may be located and trimmed in such a manner as to avoid shading the PSES.

D. 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.

E. Decommissioning

1. The PSES owner and/or operator is required to notify the Township immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
2. The PSES owner shall have twelve (12) months in which to dismantle and remove the PSES, including but not limited to all solar related equipment, buildings, cabling, electrical components, roads, foundations and other associated facilities. If the owner fails to dismantle and/or remove the PSES within the established timeframes, the Township may complete the decommissioning at the owner's expense. Access roads may remain in place if so desired by the property owner and such desire is expressed in writing to the Township.
3. 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. The amount of said financial security shall be reviewed and approved by the Township Engineer. In addition, five (5) years

after the date of the initial deposit of said financial security, and every five (5) years thereafter, the Township Engineer shall review the financial security to determine if said security needs to be increased or decreased. If a change in the amount of the financial security needs to be made, the owner/operator shall provide financial security in the amount required within thirty (30) days after being notified by Township.

- F. The layout, design, installation and ongoing maintenance shall conform to applicable industry standards and shall comply with the PA Uniform Construction Code as enforced by Washington 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.
- G. Upon completion of installation, the PSES shall be maintained in good working order in accordance with standards of the Washington Township code under which the PSES was constructed.
- H. Principal Solar Energy Systems must be installed by companies and/or teams which include key personnel who meet or exceed one of the following requirements:
 - 1. Certified installers on DEP's approved solar installer list
 - 2. Certification by the North American Board of Certified Energy Practitioners (NABCEP), or
 - 3. 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.
- I. All on-site utilities, transmission lines, and plumbing shall be placed underground, unless reasonable cause is provided to justify above-ground installations.
- J. The owner of the PSES shall provide Washington 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. This requirement shall be considered satisfied by the owner providing copies of interconnections reports from the grid operator.
- K. No portion of the PSES 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 PSES provided they comply with the prevailing sign regulations.
- L. Glare
 - 1. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

2. 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.

M. Solar Easements

1. An owner of an PSES may enter into solar easements with surrounding property owners if, in the opinion of an PSES owner and/or operator, a solar easement is required.
2. Said easements shall be in writing, and copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the PSES.

N. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for an PSES, except as agreed to in writing by the applicable parties, 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:

1. 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.
2. The right to prohibit the development on or growth of any trees or vegetation on such property.

§ 280-6. Ground Mounted PSES.

A. Yard Setbacks

1. The setbacks shall be fifty (50') feet for front, rear and side setbacks.
2. If an adjoining property has an adjacent ground mounted PSES then the setback requirement may be waived in writing by mutual agreement of the property owners.
3. If an adjoining property is used as a PSES then there is no setback requirement along the border with that property.

B. Height: Freestanding ground mounted PSES are subject to specified maximum accessory structure height, if any.

C. Impervious Coverage

3. The area beneath the ground mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations.
4. The applicant shall submit a Storm Water Management Plan that demonstrates compliance with Chapter 295, Stormwater Management, of the Washington Township Code.

D. Screening: Ground mounted PSES shall be screened from adjoining uses. The screening shall consist of coniferous and/or deciduous trees and shall be planted in such a manner that they will reasonably screen the PSES 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. However, if an adjoining property is used as a PSES or if the adjoining property owner excuses the screening requirement in writing, then the screening requirement shall not apply.

- E. Ground mounted PSES shall not be placed within any legal easement or right-of-way location, or 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.
- F. Security
 - 1. All ground mounted PSES shall be completely enclosed by a minimum six (6) foot high fence with a locking gate. The fencing style and material shall be approved by the Board of Supervisors at the conditional use hearing.
 - 2. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the access gate to the fence surrounding the PSES informing individuals of potential voltage hazards.
 - 3. All electrical control devices associated with the PSES shall be locked to prevent unauthorized access or entry.
- G. Access
 - 1. At a minimum, a 10' wide access road must be provided from a state or township roadway into the site, provided such access road is designed with an apron of adequate turning radii to permit large vehicle access.
 - 2. At a minimum, a 10' wide cartway shall be provided between the solar arrays to allow access. 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.
 - 3. Solar panels shall not extend into the cartway.
 - 4. Access to the PSES shall comply with the access requirements in the Subdivision and Land Development chapter of the Washington Township Code.
- H. The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
- I. If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

§ 280-7. Roof and Wall Mounted PSES.

- A. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and that the roof or wall is capable of holding the load imposed on the structure.
- B. PSES mounted on the roof or wall of any building shall be subject to the specified maximum height regulations, if any.

- C. Wall mounted PSES shall comply with the specified setbacks for principal structures, if any.
- D. Solar panels shall not extend beyond any portion of the roof edge.

§ 280-8. 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 every year thereafter.

§ 280-9. Penalties and Enforcement.

- A. Violations of this act may be enforced as a summary offense in accordance with Section 1601(c.1)(2) of the Second-Class Township Code. The maximum fine that shall be imposed for a violation is \$1,000. Each day that a violation exists and continues shall constitute a separate offense.
- B. The Township may also enforce this Chapter through an action in equity brought in the Franklin County Court of Common Pleas.
- C. The Township shall be entitled to recover from any owner all costs or fees arising out of or related to the civil enforcement of this Chapter. Such costs may also include those to remedy violations of this Chapter 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.

§ 280-10. Waivers.

- A. Where, owing to special conditions, enforcement of the provisions of this Chapter would result in a hardship, the Board of Supervisors may make such reasonable waivers thereto which are in accordance with modern and evolving principles and are not contrary to the public interest, so that the spirit of the Chapter shall be observed and substantial justice done.
- B. An 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 at a public meeting and record the action and grounds for granting or denying the waiver in its minutes.

III. EFFECTIVENESS

This ordinance shall take effect five (5) days after its enactment.

IV. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by any Court or competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such portion shall not affect the validity of the remaining portions hereof.

V. REPEAL

This ordinance repeals the portions of any and all other resolutions and ordinances which are inconsistent with the terms of this ordinance. Any and all such provisions not inconsistent with this ordinance are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township. It is the intention of said Board of Supervisors that only such provisions as this ordinance expressly amends shall be deemed repealed, and only changed provisions in this ordinance shall be deemed to be enacted from the effective date of this ordinance.

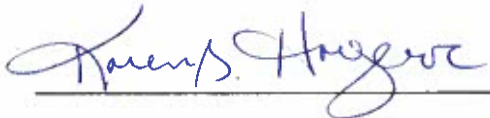
DULY ENACTED AND ORDAINED this 21 day of December 2020, by the Board of Supervisors of the Township of Washington, Franklin County, Pennsylvania, in lawful session duly assembled.

ATTEST:

WASHINGTON TOWNSHIP

BY:

BOARD OF SUPERVISORS





Karen S. Hargrave, Township Secretary

C. Stewart McCleaf, Vice Chairman