

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
FAIRFIELD TOWNSHIP, WESTMORELAND COUNTY, PENNSYLVANIA
REGULATING THE CONSTRUCTION, OPERATION AND DECOMMISSIONING OF
SOLAR ELECTRIC ENERGY FACILITIES

ORDINANCE NO. 1-2024

Section 1. Title. This Ordinance shall be known as the Solar Electric Facility Ordinance for Fairfield Township, Westmoreland County, Pennsylvania (hereinafter "Township").

Section 2. Purpose. The purpose of the Ordinance is to provide for the construction, installation, operation and decommissioning of Solar Electric Energy Facilities in the Township, subject to reasonable conditions that will protect the public health, safety, and welfare.

Section 3. Definitions.

- A. "Applicant" is the Landowner or Developer and includes their heirs, successors, and assigns, who has filed an application for development of a Solar Electric Energy Facility under this Ordinance.
- B. "Facility Owner" means the person or entity having an equity interest in the Solar Electric Energy Facility, including their heirs, successors, and assigns.
- C. "Financial Security" means a form of security including a cash deposit, surety bond, irrevocable letter of credit, or other similar funding in a form approved by the Township, in the amount of 110% of the total decommissioning costs for the Solar Electric Energy Facility.
- D. "Operator" means the entity responsible for the day-to-day operation and maintenance of the Solar Electric Energy Facility.
- E. "Solar Electric System" means the components and subsystems that, in combination, convert solar energy into electric energy suitable for use. The term includes but is not limited to photovoltaic and concentrated solar power systems.
- F. "Solar Electric Energy Facility" means an installation or area of land in which multiple photovoltaic solar panels are set up in order to generate electricity for commercial solar applications. This term shall not include an installation or area of land with solar panels used primarily for on-site electricity uses.

Section 4. Applicability.

- A. This Ordinance applies to any Solar Electric Energy Facility in excess of Fifteen (15) Acres proposed to be developed or constructed after the effective date of the Ordinance.

B. A Solar Electric Energy Facility constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modification or alteration to an existing Solar Electric Energy Facility that materially alters the size, type or components of the Solar Electric System shall require a permit under this Ordinance. Routine operation and maintenance or like-kind replacements do not require a permit.

Section 5. Permit Requirements.

- A. No Solar Electric Energy Facility, or addition of a Solar Electric System to an existing Solar Electric Energy Facility, shall be constructed or located within the Township unless a permit has been issued to the Facility Owner or Operator approving construction of the Solar Electric Energy Facility under this Ordinance.
- B. The permit application or amended permit application shall be accompanied by a fee in an amount to be determined from time to time by Resolution of the Board of Supervisors of Fairfield Township.
- C. Any physical modification to an existing and permitted Solar Electric Energy Facility that materially alters the size, type and number of Solar Electric Systems or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.
- D. The Applicant must obtain land development plan approval from the Board of Supervisors and comply with any applicable Subdivision and Land Development Ordinance, Stormwater Management Ordinance, and all other ordinances applicable to the same.

Section 6. Permit Application.

- A. The permit application shall demonstrate that the proposed Solar Electric Energy Facility will comply with this Ordinance.
- B. Among other things, the application shall contain the following:
 1. A narrative describing the proposed Solar Electric Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Solar Electric Energy Facility, the approximate number, representative types and height or range of heights of the panels or other Solar Electric System equipment to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of all ancillary facilities.
 2. An affidavit or similar evidence of agreement between the Landowner of the real property on which the Solar Electric Energy Facility is to be located and the Facility Owner, demonstrating that the Facility Owner has permission of the Landowner to apply for necessary permits or approvals for construction and operation of the Solar Electric Energy Facility (“Participating Landowner Agreement”).

3. Identification of the properties or portions thereof on which the proposed Solar Electric Energy Facility will be located, and the properties adjacent to where the Solar Electric Energy Facility will be located.
4. A site plan showing the planned location of each Solar Electric Energy Facility property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Solar Electric System to the substation(s), ancillary equipment, buildings, and structures, including associated distribution and/or transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
5. Documents related to decommissioning, including a schedule for decommissioning.
6. Other relevant studies, reports, certifications, and approvals as may be provided by the Applicant or required by the Township to ensure compliance with this Ordinance.

C. Within thirty (30) days after receipt of a permit application, the Township will determine whether the application is complete and advise the applicant accordingly.

D. Within sixty (60) days following the determination of completeness, the Township will schedule a public hearing. The Applicant shall participate in the hearing and present the project to the public and municipal officials, and answer questions about the project. The public shall have an opportunity to ask questions and comment on the proposed project.

E. Within one hundred and twenty (120) days following the determination of completeness, or within forty-five (45) days after the close of any hearing, whichever is later, the Township will make a decision whether to issue or deny the permit application.

F. Throughout the permit process, the Applicant shall promptly notify the Township of any changes to the information contained in the permit application.

G. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

Section 7. Design and Construction.

A. Design Safety Certification. The design of the Solar Electric Energy System shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), IEEE, Solar Rating and Certification Corporation (SRCC), ETL, Florida Solar Energy Center (FSEC) or other similar certifying organizations.

B. Uniform Construction Code. The Solar Electric Energy Facility and the Solar Electric System shall be constructed to and comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and any regulations adopted by the Pennsylvania Department of Labor and Industry as they relate to the UCC, except where an applicable industry standard has been approved by the Department of Labor and Industry under its regulatory authority.

C. Visual Appearance; Power Lines.

1. Solar Electric Energy Facilities shall not be artificially lighted, except to the extent required by safety or by any applicable federal, state, or local authority.
2. Solar Electric Energy Facilities shall not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the Facility Owner.
3. On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.

D. Warnings.

1. A Solar Electric Energy Facility shall be enclosed by a fence, barrier, or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the property.
2. Clearly visible warning signs shall be placed on the fence, barrier, or Solar Electric Energy Facility perimeter to inform individuals of potential voltage hazards.

Section 8. Property Requirements.

- A. All Solar Electric Energy Systems shall be located on a contiguous tract of land being not less than Fifteen (15) Acres in size.
- B. All structures comprising the Solar Electric Energy System shall comply with all federal and/or commonwealth statutes, laws, rules, or regulations applicable to same.
- C. All solar panels must be arranged to not create glare onto adjoining properties.

D. Setback Requirements.

1. Setback distances shall be measured from the closest edge of any part or portion of the Solar Electric Energy System to the nearest property line.
2. All structures, including solar panels, comprising any part or portion of the Solar Electric Energy System shall be located no less than One Hundred Fifty (150') Feet from the nearest property line.

E. Screening Requirements. For any portion of the Solar Electric Energy System located within Two Hundred (200') Feet of the nearest property line, visual screening shall be included as part of the required fence or barrier limiting access to the property.

F. A Solar Electric Energy Facility shall be sited in such a way that it presents no threat to traffic or to public health and safety.

Section 9. Decommissioning.

- A. The Facility Owner and Operator shall, at their expense, complete decommissioning of the Solar Electric Energy Facility or individual Solar Electric System within twelve (12) months after the end of the useful life of such Facility or System. A Solar Electric Energy Facility or System will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- B. The Facility Owner and Operator shall, at the request of the Township, provide documentation concerning the amount of energy generated by the Solar Electric Energy Facility within the prior 12-month period.
- C. Decommissioning shall include removal of all Solar Electric Energy Systems, buildings, cabling, solar panels, electrical components, roads, foundations, and any other associated facilities.
- D. Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- E. Financial Security. At the time of approval of the Subdivision and Land Development Plan and permit for the Facility, the Owner shall provide Financial Security as defined herein to secure its obligations under this Section.
 1. At the time of application, the Facility Owner shall provide the Township with an estimate of the cost of performing the decommissioning activities required herein. The estimate may include an estimated salvage and resale value, discounted by a factor of 10%. The decommissioning cost estimate formula shall be: Gross Cost of Decommissioning Activities minus 90% Credit of Salvage and Resale Value equals the decommissioning cost estimate.
 2. On every fifth anniversary of the date of providing the Financial Security, the Facility Owner shall provide an updated decommissioning cost estimate utilizing the formula set forth above with adjustments for inflation and changes in costs and values.
 3. If the decommissioning security amount increases, the Facility Owner shall remit the increased Financial Security within Thirty (30) Days of notice from the Township.
 4. If the decommissioning security amount decreases by greater than 10%, the Township shall release from the security any amount in excess of 110% of the updated decommissioning cost estimate.

Section 10. Remedies.

- A. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance or a permit issued under this ordinance or cause another to violate or fail to comply, or take any action which is contrary to the terms of this Ordinance or a permit issued under this Ordinance.
- B. If, after thirty (30) days from the date of the notice of violation, the Township determines, in its discretion, that the parties have not resolved the alleged violation, the Township may institute civil enforcement proceedings or any other remedy at law or in equity to ensure compliance with the provisions hereof or with any applicable Subdivision and Land Development Ordinance.

Section 11. Conflict of Laws. All ordinances or portions thereof conflicting with the terms of this Ordinance are hereby repealed to the extent of such conflict.

Section 12. Legality. In the event any Court of competent jurisdiction shall determine that any piece or portion of this ordinance is illegal, unconstitutional, or unenforceable, the same shall not affect the remaining provisions hereof which shall remain in full force and effect.

Section 13. Effective Date. This ordinance shall take effect in thirty (30) days following the adoption thereof.

BOARD OF SUPERVISORS OF
FAIRFIELD TOWNSHIP

Attest:

Carrie Tantlinger
Secretary
(Seal of the Township)

Vaughn Tantlinger
Vaughn Tantlinger

Paul Altimus
Paul Altimus

James Brown