SPRING TOWNSHIP,
PERRY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE TOWNSHIP OF SPRING, PERRY COUNTY, PENNSYLVANIA AMENDING THE SPRING TOWNSHIP ZONING ORDINANCE TO ADD A NEW SECTION 1229 TO ARTICLE 12 GENERAL PROVISIONS, TO REGULATE SOLAR ENERGY SYSTEMS

SECTION 1 - INTRODUCTION

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 the property and the conservation of energy through access to and use of renewable energy resources; and

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

WHEREAS, the purpose of this Ordinance is to set requirements for solar energy systems;

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Spring Township as follows:

SECTION 2 - DEFINITIONS

ACCESSORY BUILDING: A building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building. An accessory structure shall exclude any vehicle as defined by the Pennsylvania Motor Vehicle Code.

ACCESSORY SOLAR ENERGY SYSTEM (ASES): 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 or solely for on-site use. An accessory solar energy 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.

APPLICANT: The individual or entity seeking approval for a solar energy system under this Ordinance. The owner of the property which the solar energy system shall be erected, as well as the Applicant, shall be responsible for compliance with this Ordinance.

ENVIRONMENTALLY STABLE: The proper placing, grading, construction, reinforcing, lining, and covering of soil, or rock to ensure there is resistance to erosion, sliding, or any other movement.

MUNICIPALITY: Spring Township, Perry County, Pennsylvania.

PRINCIPAL BUILDING: A building or structure in which is conducted the principal use of the lot on which the building or structure is located.

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.

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 to assure adequate access to direct sunlight for solar energy systems.

SOLAR GRAZING: The method of vegetation control on a solar site using grazing livestock. Sheep are most often used for this work as they are best suited for solar installations due to their size and grazing behavior.

SOLAR ENERGY: Radiant energy (direct, diffuse, and/or reflective) emitted from the sun.

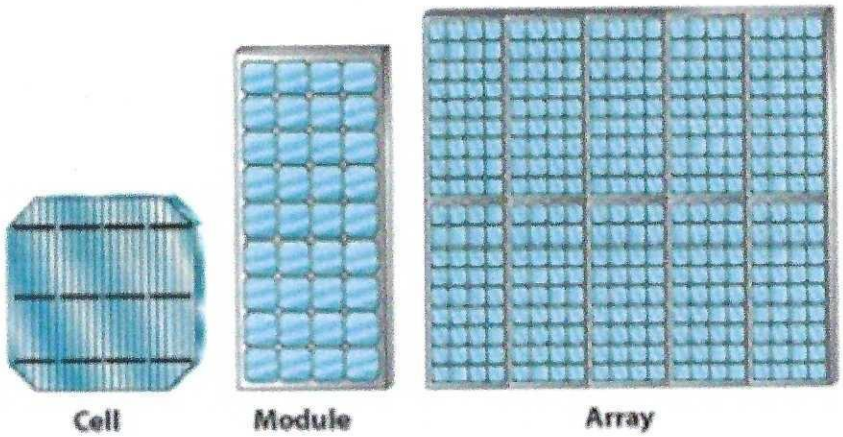
SOLAR ENERGY SYSTEM: A solar photovoltaic cell, module, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

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

1. SOLAR ARRAY: A grouping of multiple solar modules to harvest solar energy.

2. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed to light.

3. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.



SECTION 3 - ACCESSORY SOLAR ENERGY SYSTEMS (ASES)

A. Regulations Applicable to All Accessory Solar Energy Systems:

1. ASES that have a maximum power rating of not more than 110% of on-site consumption of utility power or fuels shall be permitted as a use by right in all zoning districts. ASES that have a power rating of more than 110% of on-site consumption of utility power or fuels shall comply with the requirements of Section 4 – Principal Solar Energy Systems.

2. Exemptions

2.a. ASES with an aggregate collection and/or focusing area of 10,100 square feet or less are exempt from this ordinance.

2.b. ASES constructed before the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing ASES, whether or not constructed before the effective date of this Section that materially alters the ASES, shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

3. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and

4. The ASES shall comply with the Spring Township Building Code, and 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.

5. All on-site utility, transmission lines, and plumbing shall be placed underground to the greatest extent feasible.

6. The ASES shall be designed to use all energy created solely for on-site purposes

7. Signage shall comply with the prevailing sign regulations.

8. The ASES shall be designed and located to ensure solar access does not rely on or interfere with adjacent properties.

9. All ASES shall be placed appropriately to eliminate concentrated glare onto nearby structures or roadways.

B. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:

1. A roof-mounted or wall-mounted ASES shall be located on a principal or accessory building.

2. The total height of a building with an ASES shall not exceed three (3) feet above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

3. Wall-mounted ASES shall comply with the setback requirements for accessory buildings within the applicable zoning districts.

4. Solar panels shall not extend beyond any portion of the roof edge.

5. The owner shall provide evidence from an appropriately licensed professional that the roof is capable of holding the load of the ASES

C. Ground Mounted Accessory Solar Energy Systems:

1. Setbacks.

1.a. The minimum setback requirements for side and rear property lines shall be equivalent to the accessory building setbacks in the applicable zoning district,

1.b. A ground-mounted ASES shall not be located in the required front yard setback.

1.c. Ground-mounted ASES are prohibited in front yards unless unique physical circumstances or conditions exist that preclude it from being located in a side or rear yard. Such physical conditions may include but are not limited to, restricted solar access in other yards, other resource constraints, unusual situations of the principal use on the parcel, etc.

1.d. Freestanding ground-mounted ASES shall not exceed 25 feet above the ground elevation surrounding the systems.

2. Coverage.

2.a. The following components of a ground-mounted ASES shall be considered impervious coverage and calculated as part of the lot coverage requirements for the applicable zoning district:

(1) Foundation systems, typically consisting of driven piles, monopoles, or helical screws with or without small concrete collars; and

(2) All mechanical equipment of the ASES including any structure for batteries or storage cells.

3. Ground-mounted ASES shall not be placed within any of the following areas; legal easement or right-of-way locations, within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a construed stormwater conveyance system.

4. If a ground-mounted ASES is removed, any earth disturbance as a result of the removal shall be graded and re-seeded.

SECTION 4 - PRINCIPAL SOLAR ENERGY SYSTEMS (PSES)

A. Regulations Applicable to All Principal Solar Energy Systems:

1. PSES constructed before the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSES, whether or not constructed before the effective date of this Section that materially alters the PSES, shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit

2. Principal solar energy systems (PSES) shall be permitted by right in all zoning districts.

3. In Agricultural Zoning Districts, no more than 20 percent of the entire area for development shall consist of Class I, Class II, Class III, and Class IV prime agricultural soils as defined by the then current version of the NRCS Custom Soil Resource Report.

4. The PSES layout, design, and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations.

5. The PSES shall comply with the Spring Township Building Code, and all other applicable fire and safety requirements. The manufacturer specifications for the key components of the systems shall be submitted as part of the application.

6. All on-site utility transmission lines and plumbing shall be placed underground to the greatest extent feasible.

7. The owner of the PSES shall provide Spring Township with written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid-connected system and approved of such connection. The owner shall provide a copy of the final inspection report or final approval from the utility company to Spring Township before the issuance of a certificate of use and occupancy for the PSES.

8. If a PSES is being used as an accessory use for commercial/industrial activity on another property, then Spring Township shall be informed of the intent of the PSES.

9. Signage shall comply with the prevailing sign regulations.

10. All PSES shall be placed accordingly so concentrated solar radiation or glare does not project onto nearby structures, roadways, or beyond the boundaries of the land upon which it is located.

11. The applicant has the burden of proving any glare produced does not have a significant impact on neighboring or adjacent uses. Spring Township may require an anti-glare coating and owns the right in requiring the applicant to provide a glare report/study. The said report/study may be required at the time of application or any time thereafter. The said report/study shall be subject to review and approval by Spring Township. The cost of the review and approval shall be paid by the applicant or owner.

12. The PSES shall be designed and located to ensure solar access does not rely on or interfere with adjacent properties

13. A noise study shall be performed and submitted with the application. The study shall be completed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed the permitted levels established by federal or state regulations.

14. No trees or other landscaping requirements set forth by Spring Township or those attached as a condition of approval for any plan, application, or permit shall be removed for the installation or operation of a PSES.

15. The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquires and complaints throughout the life of the project and provide this name and number to Spring Township. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

16. The PSES owner shall be responsible for maintaining all panels, structures, and equipment and shall repair or replace any damaged or visibly degraded components. Components shall be replaced with equivalent parts or materials consistent with the original design and manufacturer's specifications and shall be completed within sixty (60) days of the notice by Spring Township.

17. A Contingency Plan of Emergency Procedures shall be developed by the PSES owner consistent with standard operating practices of the industry and furnished to Spring Township, the local fire company, and the County Department of Emergency Services at the time the application for a permit is submitted. The same shall be reviewed and updated, if necessary, every five (5) years.

B. Ground Mounted Principal Solar Energy Systems:

1. Minimum Lot Size

1.a. The PSES shall not be constructed on a parcel smaller than one (1) acre.

2. Setbacks

2.a. The PSES shall be setback a minimum of 1,000 feet from an adjacent residence, residential development or district, or school, including public or private.

C. If the PSES occupies two or more adjacent properties, setbacks between the adjacent properties shall be waived along the shared property boundaries so the PSES may be installed continuously and make the most efficient use of the project area.

D. Height

1. Ground-mounted PSES shall not exceed 25 feet in height.

E. Impervious Coverage

1. The following components of a PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the applicable zoning district:

a. Foundation systems, typically consisting of driven piles, monopoles, or helical screws with or without small concrete collars

b. All mechanical equipment of the PSES including any structure for batteries or storage cells.

c. Gravel or paved access roads servicing the PSES.

F. Stormwater

1. The Applicant shall submit a stormwater management plan that demonstrates compliance with the municipal stormwater management regulations.

2. PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for stormwater management.

G. Screening

1. Street screening shall consist of slat fencing or shrubs, six feet to eight feet high when mature to provide an effective visual screen. The exact type and placement of vegetation shall be determined by Spring Township. Shrubs shall be planted adjacent to or outside of the road right-of-way. A solar perimeter fence shall be placed between shrubs and solar panels.

2. Residential buffer screens shall be slat fencing, a row of evergreen conifers, or broadleaf evergreens spaced in accordance with the chosen species to achieve a continuous visual barrier reaching six feet to eight feet in height within two years of planting. Screening may be a combination of plantings and/or structures with prior approval by Spring Township.

3. Perimeter fence shall be placed between shrubs and solar panels.

4. Widespread use of herbicides to control ground cover growth shall be prohibited.

5. Ground-mounted PSES shall not be placed within any legal easement or right-of-way location, 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. Security

1. All ground mounted PSES shall be completely enclosed by fencing that consists of a minimum of eight (8) foot high fence with a locking gate, or as designated by Spring Township.

2. A clear visible warning sign shall be placed at the base of all pad-mounted transformers, or substations, and on the fence surrounding the PSES informing individuals of potential voltage hazards.

3. Access drives shall be required for maintenance and emergency management vehicles. The minimum cartway width is 12'.

4. If a ground-mounted PSES is removed, any earth disturbance as a result of the removal shall be properly graded and re-seeded.

I. Roof Mounted Principal Solar Energy Systems:

1. The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of holding the load of the PSES.

2. The total height of a building with a PSES shall not exceed more than 3 feet above the maximum building height specified for a principal or accessory building within the applicable zoning district.

SECTION 5 - DECOMMISSIONING

A. Documentation

1. The PSES owner is required to notify the Municipality 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 a system for 12 continuous months and the owner has not initiated necessary remedial actions to return the PSES to a generating state. If the PSES owner fails to dismantle and/or remove the PSES within 18 months of abandonment, Spring Township may complete the decommissioning at the property owner's expense. The PSES owner shall post a bond when the application for such a system is filed in an amount determined by Spring Township Engineer, to ensure proper decommissioning.

2. The applicant for a Zoning Permit for a PSES shall execute an agreement with Spring Township providing financial security in an amount equal to one hundred ten (110%) percent of the estimated cost to decommission the PSES. The estimated cost shall be prepared by the applicant and shall be in writing itemizing the costs. The estimated costs shall be subject to the approval of Spring Township.

   a. Funds deposited with Spring Township,

   b. A bond from an entity acceptable to Spring Township, or

   c. An irrevocable letter of credit from an entity acceptable to Spring Township.

3. During the operation of the facility, a new engineer's estimate of cost for decommissioning the PSES shall be submitted every 10 years to Spring Township. Upon approval of the estimated costs by Spring Township Engineer, a revised surety shall be provided to Spring Township in the amount of 150% of the new estimate.

4. If the property was utilized in active agricultural use prior to the establishment of the PSES, the owner shall return the property into a form suitable for future agricultural purposes after the decommissioning. The acceptability of the re-establishment of the land will be to the sole decision of Spring Township.

5. The landowner shall execute an agreement with Spring Township providing financial security in an amount equal to one hundred ten (110% percent of the estimated cost to return the property to its original condition. The estimated cost shall be prepared by the applicant and shall be in writing itemizing the costs. The estimated costs shall be subject to the approval of Spring Township.

6. The agreement and financial security shall remain in effect until the PSES is decommissioned and the land is restored to its original condition. The financial security may be utilized by Spring Township to pay the costs of the land as provided herein. Every five (5) years, a new estimate of the said costs shall be submitted to Spring Township in writing by the landowner. The said estimate shall be subject to the approval of Spring Township. The said financial security shall be adjusted to equal one hundred ten (110%) percent of the said estimated costs. In the event, Spring Township utilizes the said financial security as herein provided, the landowner shall, immediately, replace the funds so utilized to the extent necessary to provide financial security in the amount of the said one hundred ten (110%) percent. Spring Township shall be entitled to an administrative fee of ten (10%) percent of the cost of any work done by it pursuant hereto. The same may be deducted from the financial security. Should the financial security not be sufficient to pay the costs and fees, the landowner shall be liable for the expenses. The agreement referred to herein shall be prepared by Spring Township. All costs, expenses, and fees incurred by Spring Township in reviewing the estimates or enforcing the said agreement shall be paid by the landowner within ten (10) days of receiving a bill.

SECTION 6 - ADMINISTRATION AND ENFORCEMENT

A. Applications

1. Permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the solar energy system on the building or property, including property lines. Permits shall be kept on the premises where the solar energy system is located.

2. The permit shall be revoked if the solar energy system, whether new or preexisting, is moved or otherwise altered, either intentionally or by natural forces, in a manner that causes the solar energy system not to conform with this Ordinance.

3. The solar energy system shall be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition, or detrimental to public health, safety, general welfare and must comply with the Pennsylvania Noxious Weed Control Law.

4. An approved land development plan shall accompany all permit applications excluding those for ASES.

B. Fees and Costs

1. The Applicant shall pay the following fees when seeking approval of a solar energy system:
   4.a. Permit Application Fee

   4.b. Inspection Fee

2. The Applicant shall reimburse Spring Township for any actual fees or costs incurred arising out of or related to the Application (collectively the "Costs"). The Costs shall

include, but not be limited to, engineering, zoning officer, building code official, and legal fees.

C. Access

1. The landowner and developer shall execute an agreement with Spring Township authorizing its employees, agents, and contractors to enter upon the real estate for the purpose of making inspections, repairs, replacements, dismantling, and/or removal, as provided herein, the same to include a release of liability for any damages caused by Spring Township, its employees, agents or contractors The said agreement, shall be prepared by Spring Township and shall be submitted with the application for a permit signed by the owner and developer.

D. Modifications

1. Spring Township may grant a modification of the requirements of one or more provisions of this ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the property in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Ordinance are observed.

2. All requests for a modification shall be in writing and shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved, and the minimum modification necessary.

E. Enforcement

1. Upon the receipt of a written complaint setting forth the existence of unauthorized construction, modification, or use in violation of this Ordinance, or other notice thereof, Spring Township Superintendent of Public Works, Zoning Officer, Code Enforcement Officer, Solicitor, or another representative that may be authorized by the Municipality's governing body (the "Enforcement Officer") shall cause written notice to be given either by personal service or certified mail to the Applicant of the Property upon which the violation exists, to immediately cease and the construction, modification or the unauthorized use of the solar energy system. Such written notice shall be required to enforce the remedies outlined in this section. However, Spring Township shall still be entitled to give a verbal notice for defective systems as authorized above.

2. Upon failure of the applicant to comply as directed in said notice, the Enforcement Officer, other municipal officials, or solicitor may appear on behalf of Spring Township to initiate legal proceedings and enforce the provisions of this Ordinance before a District Magistrate.

3. Any Applicant who or which shall violate or permit to be violated the provisions of this ordinance shall be found liable therefor in a civil enforcement proceeding brought by Spring Township before a District Magistrate, pay a fine of not less than one-thousand ($1,000.00) and no more than five-thousand ($5,000.00) dollars, plus all court costs,

including reasonable attorney fees incurred by Spring Township. No fine shall commence or be imposed, levied, or be payable until the date of the determination of the violation by a District Magistrate.

4. In addition, Spring Township shall be entitled to recover from any applicant all the Municipality's costs or fees (collectively the "Costs") arising out of or related to the application or enforcement of this Ordinance. Such Costs may also include those to remedy violations of this Ordinance or to abate nuisances. The Costs shall include, but not be limited to, engineer fees, geologist fees, attorney fees, zoning officer fees, and staff/employee time. The Costs may be collected as a Municipal Claim under applicable law against the property upon which the solar energy system is located.

SECTION 7 - CONSTRUCTION AND SEVERABILITY

A. The provisions of this Ordinance shall be construed to the maximum extent possible to further the purposes and policies set forth herein, as consistent with applicable state statutes and regulations. If the provisions of this section and state law are in conflict, then state law shall prevail.

B. It is the intention of Spring Township Board of Supervisors that the provisions of this Ordinance are severable and if any provisions of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining provisions of this Ordinance.

SECTION 8 - REPEALER

A. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 9 - EFFECTIVE DATE

This Ordinance shall become effective five (5) days after its enactment.

Enacted and Ordained on this, the 3rd day of September 2024.

Attest:

Wendy J. Campbell
Township Secretary

By: D. Mack
Board of Supervisors Chairman