

**TOWNSHIP OF PORTER, CLINTON COUNTY, PENNSYLVANIA
ORDINANCE NO. 03-21-2022**

AN ORDINANCE AMENDING CHAPTER 27 OF THE PORTER TOWNSHIP, CLINTON COUNTY, PENNSYLVANIA, CODE OF ORDINANCES TO ADD SOLAR ENERGY SYSTEMS AS A PERMITTED USE AND/OR CONDITIONAL USE, TO REGULATE SAME, AND TO DEFINE TERMS USED THEREIN.

WHEREAS, the Board of Supervisors of Porter Township, Clinton County, Pennsylvania desires to amend its Zoning Ordinance to allow for the use of solar energy and to provide for the land planning, installation and construction of solar energy systems in Porter Township, Clinton County, Pennsylvania, subject to reasonable conditions that will protect the public health, safety and welfare; and

WHEREAS, the Board of Supervisors of Porter Township, Clinton County, Pennsylvania, is vested with authority so to do under, and by virtue of and pursuant to the Second Class Township Code, 53 P.S. §65101, and by Act 247, of the Pennsylvania Municipalities Planning Code; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Porter Township, Clinton County, Pennsylvania, that the Porter Township Zoning Ordinance be amended as follows:

SECTION I.

Chapter 27 of the Porter Township Code of Ordinances is hereby amended to add to Article II, Section 2.02, Use Regulations, under subsection 2, Conditional Uses, subparagraph M, the term “Solar Energy Systems.”

SECTION II.

Chapter 27 of the Porter Township Code of Ordinances is hereby amended to add to Article III, Section 3.02, Use Regulations, under subsection 2, Conditional Uses, the phrase, “The following may be approved as a conditional use when authorized by the procedures outlined in §1106.”

SECTION III.

Chapter 27 of the Porter Township Code of Ordinances is hereby amended to add to Article III, Section 3.02, Use Regulations, under subsection 2, Conditional Uses, subparagraph D, the term “Solar Energy Systems.”

SECTION IV.

Chapter 27 of the Porter Township Code of Ordinances is hereby amended to add to Article VII, Section 7.02, Use Regulations, the under subsection 2, Conditional Uses, subparagraph D, the term "Solar Energy Systems."

SECTION V.

Chapter 27 of the Porter Township Code of Ordinances is hereby amended to add to Article VIII, Section 8.23, as follows:

SECTION 8.23 SOLAR ENERGY SYSTEMS

SECTION 1. DEFINITIONS

- (A) This ordinance applies to solar energy systems to be installed and constructed after the effective date of this ordinance, and all applications for solar energy systems on existing structures or property.
- (B) Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
- (C) Any upgrades, modifications or changes that materially alter the size or placement of an existing solar energy system shall comply with the provisions of this ordinance.

The following words, terms and phrases, when used in this ordinance, unless the context indicates otherwise, shall have the following meanings ascribed to them:

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 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.

Glare - The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility to a reasonable person of ordinary sensibilities.

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 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 purpose of assuring adequate access to direct sunlight for solar energy systems.

Solar Energy - Radiant energy (direct, diffuse and/or reflective) received from the sun.

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.

SECTION 2. REGULATIONS FOR ACCESSORY SOLAR ENERGY SYSTEMS (ASES)

Sec. 2.1. Exemptions

(A) Except as provided herein, ASES are exempt from this ordinance.

(B) ASES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing ASES whether or not existing prior to the effective date of this Section that materially alters the size or placement of the ASES shall require compliance with the provisions of this ordinance.

Sec. 2.2. Where Permitted

ASES shall be permitted as an accessory use in all zoning districts.

Sec. 2.3. Maintain in Good Working Order

Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards of Porter Township, Clinton County, Pennsylvania, and any other codes under which the ASES was constructed. Failure of the property owner to maintain the

ASES in good working order is grounds for appropriate enforcement actions by Porter Township, Clinton County, Pennsylvania, in accordance with applicable ordinances.

Sec. 2.4. Underground Requirements

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

Sec. 2.5. Utility Notification

The owner of an ASES shall provide Porter Township, Clinton County, Pennsylvania, written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

Sec. 2.6. Signage

Signage is prohibited except for reasonable identification of the manufacturer of the system.

Sec. 2.7. Glare

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

(B) 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.

Sec. 2.8. Solar Easements

(A) Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement shall include but not be limited to:

(1) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

(2) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

(3) Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

(4) Explain the compensation for the owner of the real property subject to the solar

easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(B) If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

Sec. 2.9. Decommissioning

(A) 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 system owner and/or operator, or upon termination of the useful life of same.

(B) 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.

(C) The ASES owner shall, at the request of Porter Township, Clinton County, Pennsylvania, provide information concerning the amount of energy generated by the ASES in the last 12 months.

Sec. 2.10. Permit Requirements

(A) Zoning /building permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits shall be kept on the premises where the ASES is constructed, or where land is unimproved, at the principal office or residence of the landowner.

(B)The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, 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 Ordinance.

(C) 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 detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.

(D) Prior to the issuance of a zoning/building permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system 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: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

(E) Routine maintenance or like kind replacements do not require a permit.

SECTION 3. PRINCIPAL SOLAR ENERGY SYSTEMS (PSES)

Sec. 3.1 Exemptions

PSES constructed prior to 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 existing prior to the effective date of this Section that materially alters the PSES shall require approval under this Ordinance.

Sec. 3.2 Where Permitted

PSES shall be permitted as a conditional use in the Agricultural and Commercial Industrial Districts.

Sec. 3.3 Compliance with Industry Standards

The PSES layout, design and installation 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 shall comply with the PA Uniform Construction Code as enforced by Porter Township, Clinton County, Pennsylvania, regulations adopted by the Pennsylvania Department of Labor and Industry, 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 permit application.

Sec. 3.4 Installers

PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

- (a) Is certified by the North American Board of Certified Energy Practitioners (NABCEP). for solar thermal installation.
- (b) Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program and successfully installed a minimum of three solar thermal systems.

Sec. 3.5 Maintain in Good Working Order

Upon completion of installation, the PSES shall be maintained in good working order in

accordance with standards of Porter Township, Clinton County, Pennsylvania, and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for appropriate enforcement actions by Porter Township, Clinton County, Pennsylvania, in accordance with applicable ordinances.

Sec. 3.6 Underground Requirements

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

Sec. 3.7 Utility Notification

The owner of a PSES shall provide Porter Township, Clinton County, Pennsylvania, 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.

Sec. 3.8 Signage

No portion of the PSES shall contain or be used to display signage, except that 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.

Sec. 3.9 Glare

(A) All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

(B) 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.

Sec. 3.10 Noise Study

A noise study shall be performed and included in the zoning/building permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not (1) constitute amount which disturbs a reasonable person of normal sensitivities and which serves as an unreasonable interference with a right common to the general public, or (2) which shall constitute a danger or potential danger to the health, safety, or welfare of the citizens of Porter Township.

Sec. 3.11 Silviculture Study

A silviculture study shall be performed by a professional silviculturist to document the original condition, quality, and density of forest and woodland, including related elements such as wildlife habitat, timber, and water resources, which study shall be provided to the Township as part of the application for a conditional use.

Sec. 3.11 Tree and Landscaping Removal

No trees or other landscaping otherwise required by the municipal ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

Sec. 3.12 Contact Information

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 Porter Township, Clinton County, Pennsylvania. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

Sec. 3.13 Solar Easements

(A) Where a subdivision or land development proposes a PSES, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement shall include but not be limited to:

- (1) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;
- (2) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
- (3) Enumerate terms and conditions, if any, under which the easement may be revised or terminated;
- (4) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(B) If required, a PSES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

Sec. 3.14 Decommissioning

(A) Each PSES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.

(B) The PSES owner is required to notify Porter Township, Clinton County, Pennsylvania, 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.

(C) The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original, as set forth in the silviculture study mentioned above, without re-introduction of invasive species. If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames, Porter Township, Clinton County, Pennsylvania, may complete the decommissioning and land restoration at the owner's expense to include Court costs and reasonable attorney's fees.

(D) At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to Porter Township, Clinton County, Pennsylvania, to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

(E) The PSES owner shall, at the request of Porter Township, Clinton County, Pennsylvania, provide information concerning the amount of energy generated by the PSES in the last 12 months.

Sec. 3.15 Permit Requirements

(A) Zoning/building permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the PSES on the property, including property lines. Permits shall be kept on the premises where the PSES is constructed or, where land is unimproved, at the principal office or residence of the landowner.

(B) PSES shall comply with Porter Township, Clinton County, Pennsylvania, zoning and subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.

(C) 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.

(D) Prior to the issuance of a zoning/building permit, PSES applicants must acknowledge in writing that the issuing of said permit 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 : (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

(E) Routine maintenance or like-kind replacements do not require a permit.

Sec. 3.16 Ground Mounted Principal Solar Systems

(A) Lot Size

(1) The PSES shall meet the lot size requirements of the underlying zoning district.

(B) Setbacks

(1) PSES shall comply with the setbacks of the underlying zoning district for principal structures.

(C) Height

(1) Ground mounted PSES shall comply with the building height restrictions for principal structures of the underlying zoning district.

(D) Coverage

- (1) 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 surface limitations for the underlying zoning district.
- (2) The PSES shall not exceed twenty-five (25%) percent of the total area of the lot in the Agricultural District.
- (3) The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations.
- (4) PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.

(E) Screening

Ground mounted PSES shall be screened from adjoining residential uses or zones by placement of a fence, at least eight (8) feet in height, that is sufficiently opaque to prohibit a person at ground level from seeing through it.

(F) Location Restrictions

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

(G) Security

- (1) All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
- (2) A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.

(H) Access

- (1) At a minimum, a 25' wide access road must be provided from a state or township roadway into the site.
- (2) At a minimum, a 20' wide cartway shall be provided between the solar arrays to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. 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) Access to the PSES shall comply with the municipal access requirements in the Subdivision and Land Development Ordinance.

(I) Lighting

The ground mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

(J) Earth Disturbance

If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded. (see Sec. 3.14(B)).

Sec. 3.17 Roof and Wall Mounted Principal Solar Energy Systems

(A) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code Porter Township, Clinton County, Pennsylvania, that the roof or wall is capable of holding the load imposed on the structure. Applications for roof mounted PSES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the PSES.

(B) PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

(C) Fire Safety – The provisions of the California Department of Forestry and Fire Protection, Office of the State Fire Marshall, Solar Photovoltaic Installation Guide dated April 22, 2008, shall apply to PSES.

VI. CONFIRMATION AND RATIFICATION

Chapter 27 of the Code of Ordinances of Porter Township, Clinton County, Pennsylvania, is hereby ratified and confirmed except insofar as the within Amendment modifies the same.

VII. EFFECTIVE DATE

This Ordinance shall become effective in accordance with law.

VIII. SAVING CLAUSE

The provisions of the Porter Township Code of Ordinances, so far as they are the same as those Ordinances and regulations enforced immediately prior to the adoption of this Ordinance, are intended as a continuation of such Ordinances and Regulations and not as a new enactment. The provisions of this Ordinance shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

IX. SEVERABILITY OF PARTS OF ORDINANCE.

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any part, section, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional, illegal, or otherwise invalid by the judgment or decree of a Court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

DULY ENACTED AND ORDAINED this 21st day of February, 2022, by Porter Township, Clinton County, Pennsylvania, in lawful session duly assembled.

ATTEST:

Carol Colucci
Carol Colucci, Secretary

TOWNSHIP OF PORTER
Clinton County, Pennsylvania

By: Kevin R. Frank
Kevin Frank, Chair

By: Phillip Courter
Phillip Courter, Vice Chair

By: Trent Rickert
Trent Rickert, Supervisor