

**BOARD OF SUPERVISORS OF
THE TOWNSHIP OF MIDDLE SMITHFIELD
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 242

AN ORDINANCE AMENDING THE MIDDLE SMITHFIELD TOWNSHIP ZONING ORDINANCE AT CHAPTER 200 OF THE CODE OF ORDINANCES OF MIDDLE SMITHFIELD TOWNSHIP BY ADDING DEFINITIONS FOR SOLAR ENERGY, ACCESSORY SOLAR ENERGY SYSTEM AND PRINCIPAL SOLAR ENERGY SYSTEM AND REMOVING SOLAR ENERGY SYSTEM FROM THE SECTION; REVISING USE REGULATIONS BY ADDING ACCESSORY SOLAR ENERGY SYSTEMS AS A BY RIGHT USE IN ALL ZONING DISTRICTS AND ADDING PRINCIPAL SOLAR ENERGY SYSTEMS AS A CONDITIONAL USE IN THE "I" ZONING DISTRICT; REVISING SUPPLEMENTARY USE REGULATIONS TO REFERENCE ACCESSORY SOLAR ENERGY SYSTEMS AND PROVIDING USE REGULATIONS; AND REVISING SUPPLEMENTARY USE REGULATIONS TO ADD PRINCIPAL SOLAR ENERGY SYSTEMS AS A SUBSECTION AND PROVIDE ADDITIONAL USE REGULATIONS.

WHEREAS, Middle Smithfield Township has previously ordained and enacted an ordinance entitled the Middle Smithfield Township Zoning Ordinance; and

WHEREAS, the Board of Supervisors of Middle Smithfield Township believes that it is in the best interest of the Township and the residents of the Township to amend the Middle Smithfield Township Zoning Ordinance by amending the requirements and regulations of solar energy systems within Chapter 200 of the Middle Smithfield Township Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, that Chapter 200 of the Middle Smithfield Township Code of Ordinances is hereby amended at Sections 020-020, 043-010, 044-050 and 044-080 as follows:

ARTICLE I. DEFINITIONS

1. Chapter 200, Zoning, Article II, Definitions, Section 020-020, Definition of Terms, of the Middle Smithfield Township Code of Ordinances is hereby amended by adding the following definitions:

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

Accessory Solar Energy System: 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 and/or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

Principal Solar Energy System: 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 and/or 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.

2. Chapter 200, Zoning, Article II, Definitions, Section 020-020, Definition of Terms, of the Middle Smithfield Township Code of Ordinances is hereby amended by removing and deleting the following term and definition:

Solar Energy System: Accessory devices and equipment designed to collect solar power and convert same into usable energy.

ARTICLE II. ZONING DISTRICTS

1. Chapter 200, Zoning, Article IV, Use Regulations Within Zoning Districts, Section 043-010, Attachment 3, Table of Use Regulations, of the Middle Smithfield Township Code of Ordinances is hereby amended by removing and deleting reference to Solar Energy System as an accessory use permitted by right in all zoning districts at Use Category H-12 in Attachment 3, and replacing it with "Accessory Solar Energy System" as an accessory use permitted in all zoning districts at Use Category H-12 in Attachment 3.
2. Chapter 200, Zoning, Article IV, Use Regulations Within Zoning Districts, Section 043-010, Attachment 3, Table of Use Regulations, of the Middle Smithfield Township Code of Ordinances is hereby amended by adding a new subsection for a Use Category E-6, "Principal Solar Energy System" as a permitted conditional use only in the "T" Commercial Industrial zoning district.

ARTICLE III. SUPPLEMENTARY REGULATIONS

1. Chapter 200, Zoning, Article IV, Section 044-080, H Accessory Uses and Structures, Subsection L, H-12 Solar Energy System, of the Middle Smithfield Township Code of Ordinances is hereby amended in its entirety to read as follows:

L. H12 Accessory Solar Energy System ("ASES")

1. Criteria Applicable to all Accessory Solar Energy Systems:

- (a) An accessory solar energy system is permitted by right in all zoning districts as an accessory to a principal use. An accessory solar energy system may be roof mounted or ground mounted.
- (b) Such accessory uses shall not interfere with the reception of any radio, television or other communication equipment, nor inhibit solar access to adjacent properties.
- (c) All such uses shall primarily serve on-site generation needs. If a hookup to a public or community utility system is proposed, the utility company shall provide written authorization of such arrangement by submitting a copy of the agreement to the Township.
- (d) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
- (e) All electric wiring and connections from such uses shall be located underground and in accordance with the appropriate building code, as amended.
- (f) Accessory solar energy systems shall require a building permit and be accompanied by standard drawings demonstrating compliance with the building code, as amended. A ground-mounted system shall require a zoning permit.

2. Ground-mounted ASES:

- (a) A ground-mounted ASES shall meet the setback requirements for accessory structures.
- (b) Ground mounted ASES shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence meeting requirements of the zoning ordinance may be used.

2. Chapter 200, Zoning, Article IV, Section 044-050, Utility, Service and Transportation Uses, of the Middle Smithfield Township Code of Ordinances is hereby amended by adding a new subsection F. titled "E6 Principal Solar Energy System" to read as follows:

F. E6 Principal Solar Energy System ("PSES")

1. Criteria Applicable to all PSES.

- (a) PSES shall be permitted by conditional use only in the “I” Commercial Industrial Zoning District.
- (b) The project narrative shall include the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the principal solar energy system.
- (c) An affidavit or similar evidence of agreement between the property owner and the solar energy facility owner or operator demonstrating permission to apply for necessary permits for construction and operation of a principal solar energy system facility.
- (d) All PSES applications after the effective date of this Chapter shall be required to meet the terms and conditions of the Middle Smithfield Township Code of Ordinances, including but not limited to Stormwater Management, Subdivision and Land Development, Building and Performance standards.
- (e) Any physical modification to any existing PSES, whether or not existing prior to the effective date of this Chapter, that expands the PSES shall require approval under this Chapter. Routine maintenance or replacements do not require a permit.
- (f) The PSES layout, design and installation shall conform to applicable industry regulations, and with all other applicable building, fire and life safety requirements.
- (g) All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground to the greatest extent feasible.
- (h) All PSES shall be situated to eliminate concentrated glare onto nearby structures or roadways.
- (i) The owner of a PSES shall provide the Township 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.
- (j) Signage shall comply with the prevailing sign regulations.

- (k) The PSES owner and/or operator shall maintain a phone number throughout the life of the project for the Middle Smithfield Township Zoning/Code Enforcement Officer to contact with inquiries and verified complaints. The PSES owner and/or operator shall make reasonable efforts to respond to inquiries and complaints from the Township. A contact name, with knowledge of the system, must be provided to Middle Smithfield Township with updates due to employee advancement or turnover.
- (l) The PSES shall meet the lot size requirements of the applicable zoning district.
- (m) PSES shall comply with the following setback requirements:
 - (1) Building setbacks of the "I" District shall apply, except that when adjacent to any residential district or parcel, the solar panels must meet a minimum fifty (50) foot setback. Fencing shall comply with the setbacks of the "I" District.
 - (2) If the PSES occupies two or more adjacent properties, setbacks between the adjacent properties shall be waived along the shared property boundaries so that the PSES may be installed continuously and make the most efficient use of the project area.
- (n) No PSES shall encroach within any wetlands, wetland buffer, watercourse buffer, steep slopes, floodplains, floodways and/or other sensitive natural areas identified during the conditional use hearing.

2. Ground-mounted PSES.

- (a) 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 districts for principal structures.
 - (2) 50 feet from adjacent residential districts or structures.
- (c) Ground-mounted PSES shall not exceed 15 feet in height.

(d) Impervious 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 surfaces limitations for the applicable Zoning District.
- (2) Gravel of paved access roads servicing the PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations.

(e) Screening and vegetation:

- (1) Street screening shall consist of slat fencing or shrubs, six feet to eight feet high when mature, that shall be planted every 15 feet of property abutting a public right-of-way. Shrubs shall be planted adjacent to or outside of the road right-of-way.
- (2) Residential buffer screening may be slat fencing or 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 the Township.
- (3) Perimeter fence shall be placed between shrubs and solar panels.
- (4) Widespread use of herbicides to control ground cover growth is prohibited.
- (5) The Applicant shall agree to, execute and record a maintenance agreement ensuring the continued maintenance of the screening in a manner and form acceptable to the Township, including but not limited to the posting of a performance guarantee.

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

(g) Unless agreed to by the easement or right-of-way holder, ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

(h) 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 and on the surrounding the PSES informing individuals of potential voltage hazards.
- (3) Access drives to solar inverter stations are required to allow for maintenance and emergency management vehicles. A recommended minimum cartway width is 20 feet.
- (4) The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).
- (5) The applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the principal solar energy system facility.

(i) If a ground-mounted PSES is removed, any earth disturbance as a result of the removal of the ground-mounted solar energy system must be returned to an environmentally stable condition.

(j) Decommissioning.

- (1) An affidavit, or similar evidence, signed by the property owner and the PSES facility owner affirming a lease agreement with a decommissioning clause (or similar) and a successors and assigns clause. The decommissioning clause must provide sufficient funds to dismantle and remove the PSES, including all solar-related equipment or appurtenances related thereto, including but not limited to buildings, electrical components, roads and other associated facilities from the property. The successors and assigns clause must bind those successors and assigns to the lease agreement.
- (2) The PSES owner 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 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 cessation or abandonment, the Township may complete the decommissioning at the property owner's expense. The PSES owner must post a bond when the application for such a system is filed with the Township, in an amount determined by the Township's Engineer, to ensure the proper decommissioning.

- (3) The PSES owner shall, at the request of the Township, provide information concerning the amount of energy generated by the PSES in the last 12 months.
- (4) During the operation of the facility, a new engineer's estimate of cost for decommissioning shall be submitted every 10 years to the Township. Upon approval of the estimated costs by the Township's Engineer, a revised surety shall be provided to the Township in the amount of 150% of the new estimate.

3. 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 adopted building code of the Township 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 maximum height regulations of the underlying zoning district.

ARTICLE IV. SEVERABILITY.

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

ARTICLE V. REPEALER.


All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

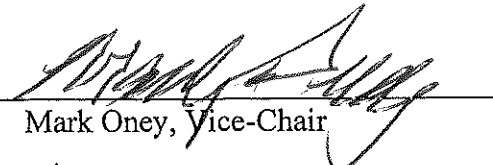
ARTICLE VI. EFFECTIVE DATE.

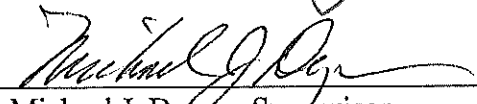
This Ordinance shall become effective five (5) days after enactment.

DULY ENACTED AND ORDAINED this 28 day of December 2023, by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, in lawful session duly assembled.

Board of Supervisors of Middle Smithfield Township

By: 
Annette Atkinson, Chair

By: 
Mark Oney, Vice-Chair

By: 
Michael J. Dwyer, Supervisor

ATTEST: 
Township Secretary

[TOWNSHIP SEAL]