FRANKLIN TOWNSHIP
ERIE COUNTY, PENNSYLVANIA

ORDINANCE NO. 3 OF 2023

SOLAR ENERGY AND WIND ENERGY CONVERSION SYSTEM

AN ORDINANCE OF FRANKLIN TOWNSHIP, ERIE COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE LICENSING AND REGULATION OF SOLAR ENERGY AND WIND ENERGY CONVERSION SYSTEMS WITHIN FRANKLIN TOWNSHIP, DEFINING CERTAIN TERMS USED HEREIN; ESTABLISHING APPLICATION AND PERMIT PROCEDURES; ESTABLISHING STANDARDS FOR SUCH SYSTEMS; PROVIDING FOR INSPECTIONS AND ENFORCEMENT. RESPONSIBILITY; ESTABLISHING AND PROVIDING FOR VIOLATIONS AND PENALTIES; DECLARING VIOLATIONS TO BE A PUBLIC NUISANCE; PROVIDING FOR APPEAL PROCEDURES, A REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, §1506 of the Second Class Township Code, Act of May 1, 1993; P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. §66506, entitled "General Powers," authorizes the Board of Supervisors of Franklin Township ("Township") to make and adopt ordinances necessary for the proper management, care and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and .

WHEREAS, §1527 of the Second Class Township Code, found at 53 P.S. §66527, entitled "Public Safety", inter alia, authorizes the Township to adopt ordinances to secure the safety of persons or property within the Township; and

WHEREAS, §1529 of the Second Class Township Code, found at 53 P.S. §66529, entitled "Nuisance's", inter alia, authorizes the Township to, by ordinance, prohibit nuisances.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Township, and it is hereby ordained pursuant to the above authority, as follows:

Section 1. Title

This Ordinance shall be known as and may be cited as "Solar Energy Ordinance".

Section 2. Findings and Purposes

The Township specifically finds and declares as follows:

A. Solar Energy and Wind Energy Conversion Systems are a growing use within Erie County.

B. While most of these units operate without a problem, there have been numerous complaints to municipalities regarding excessive noise, parking, litter, and concerns regarding security, public safety, and trespass and liability issues.

C. The provisions of this Ordinance are necessary to prevent the potential burden on Township and community services and negative impacts on residents.

D. Compliance with the provisions of this Ordinance will maintain the residential qualities and characteristics of our neighborhoods that attract residents, homeowners, and visitors.

Section 3. Scope; Interpretation; Responsibility.

A. Scope. This Ordinance shall apply to all Solar and Wind Energy Conversion Systems as defined in sections 5 and 8, infra, and all provisions of this Ordinance shall apply to such systems in addition to all other applicable requirements of Township ordinances, including but not limited to the Township Zoning Ordinance ("Zoning Ordinance").

B. Responsibility. The owner of the system shall be responsible for compliance with the provisions of this Ordinance and the failure of an owner, agent, managing agency, or contact person, to comply with the provisions of this Ordinance, including the monitoring and control of the systems, shall be deemed noncompliance by the owner and subject the owner to enforcement proceedings and the penalties contained herein.

Section 4. Nuisance Declared.

In the interest of protecting and promoting the public health, safety, and welfare, and minimizing the burden on Township and community services and the negative impacts on residential neighborhoods posed by Solar and Wind Energy Conversion Systems, a violation of any of the provisions of this Ordinance is declared to be a public nuisance.

Section 5. Definitions.

The words and phrases used in this Ordinance shall have the following meanings:

ACCESSORY SOLAR ENERGY SYSTEM (ASES) (often referred to as "residential solar") — 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 on-site use. An accessory solar energy system consists of one or more freestanding 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 pursuant to this chapter. The owner of the real property upon which the solar energy system shall be erected, as well as the applicant, shall be responsible for compliance with this chapter.

ENVIRONMENTALLY STABLE — The proper placing, grading, construction, reinforcing, lining, and covering of soil, rock, or earth to ensure their resistance to erosion, sliding or other movement and to comply with the Stormwater Management Ordinance.

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) (often referred to as "solar farm" or "commercial solar") — 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 or more freestanding 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 ENERGY — Radiant energy (direct, diffuse and/or reflective) received 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.

A. SOLAR ARRAY — A grouping of multiple solar modules with the purpose of harvesting solar energy.

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

C. SOLAR MODULE — A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR GRAZING — The practice of grazing livestock on solar farms. Sheep are the most common solar grazing animals, as they are the best-suited species. For the safety of low-mount solar arrays, goats, cows, pigs, and horses are not recommended.

SOLAR-RELATED EQUIPMENT — Items including a solar photovoltaic cell, module, or array, or 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.

Section 6. Accessory solar energy systems (ASES)

A. Regulations applicable to all accessory solar energy systems.

1) Accessory solar energy systems are permitted use in all zoning districts.

2) Observance of performance standards must be adhered to.

(a) Exemptions.

[1] 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, whether or not existing prior to the

effective date of this chapter, that materially alters the ASES shall require approval under this chapter. Routine maintenance or like-kind replacements do not require a permit.

3) The ASES layout, design and installation shall conform to applicable industry regulations and with all applicable fire and life safety requirements.

4) All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground to the greatest extent possible.

5) The ASES shall be designed to use the energy created primarily for on-site use.

6) All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.

7) All ASES shall be situated 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 may be located on a principal or accessory building.

2) ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for buildings within each of the applicable zoning districts.

3) Wall-mounted ASES shall comply with the building setbacks in the applicable zoning districts.

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

5) The owner shall provide evidence certified by 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.

(a) The minimum setbacks from side and rear property lines shall be equivalent to the building setbacks in the applicable zoning district.

(b) A ground mounted ASES shall not be located in the required front setback.

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

2) Freestanding ground mounted ASES solar panels shall not exceed 18 feet in height above the ground elevation surrounding the systems.

3) Coverage.

(a) 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 stormwater planning.

4) Ground-mounted ASES 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 construed stormwater conveyance system.

5) If a ground mounted ASES is removed, any earth disturbance because of the removal of the ground mounted solar energy system shall be immediately graded and returned to environmentally stable condition.

Section 7. Principal solar energy systems (PSES)

A. Regulations applicable to all principal solar energy systems.

1) Principal solar energy systems are a Conditional use in A-I, B-l, I-I, R-l and R-2, Zoning Districts.

2) The project narrative must be submitted, including 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 solar energy system.

3) 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 solar energy facility.

4) All PSES applications after the effective date of this chapter shall be required to meet the terms and conditions of the Franklin Township Codes, including but not limited to Ordinances, Stormwater Management, Subdivision and Land Development, Zoning, and Observance of proper performance standards.

5) 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 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.

6) The PSES layout, design and installation shall conform to applicable industry regulations, and with all other applicable fire and life safety requirements.

7) All on-site utility transmission lines less than 34.5 kV and plumbing shall be placed underground.

8) 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.

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

10) Signage shall comply with the prevailing sign regulations.

11) All PSES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

12) All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.

13) The PSES owner and/or operator shall maintain a phone number throughout the life of the project for the Franklin Township Code Enforcement Officer to contact with inquiries and verified complaints.

14) The PSES owner and/or operator shall respond to the inquiries and complaints within two (2) business days.

15) A contact name, with knowledge of the system, must be provided to Franklin Township with updates due to employee advancement or turnover.

B. Ground-mounted principal solar energy systems.

1) Minimum lot size.

(a) The PSES shall meet the lot size requirements of the applicable zoning district.

2) Setbacks.

(a) PSES shall comply with the following setback requirements:

[I] Building setbacks of the applicable zoning districts, must follow a minimum fifty-foot setback while the fencing shall comply with the setbacks of the underlying zoning district.

(b) 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.

3) Height.

(a) Ground-mounted PSES solar panels shall not exceed 18 feet in height.

4) Impervious coverage.

(a) According to the Pennsylvania DEP, 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 overall lot coverage requirement.

(b) Gravel of paved access roads servicing the PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations.

5) Screening and vegetation.

(a) 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. Solar perimeter fence shall be placed between shrubs and solar panels. Reasonable modifications to these requirements may be requested through the conditional use process.

(b) 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. Reasonable modifications to these requirements may be requested through the conditional use process.

(c) The perimeter fence shall be placed between shrubs and solar panels.

(d) Widespread use of herbicides to control ground cover growth is prohibited.

6) 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.

7) Security.

(a) In accordance with NEC, all ground mounted PSES shall be completely enclosed by fencing with a locking gate. Current NEC code requires a minimum six-foot-high fence with barbed wire or a seven-foot-high fence.

(b) 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.

8) Access drives to solar inverter stations are required to allow maintenance and emergency management vehicles. The recommended minimum cartway width is 50 feet. Fire department access roads must be provided so fire apparatus can drive within 150 ft of arrays. A turnaround of 150 ft is required for the fire apparatus. Access must be kept open year round by plowing the cartways, as necessary.

9) 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.

C. Solar grazing. Solar grazing with sheep is highly encouraged and a preferred method of controlling ground cover growth. The Township believes co-pasturing is very beneficial to maintain our rural character.

1) Benefits of solar grazing:

(a) Farm income is more diversified and increases family farm viability.

(b) Farmland conservation and keeping farmland in farm production.

(c) Added visual benefit and aesthetics for the community.

(d) Solar grazing contributes dairy, meat, and wool to the locally sourced, renewable farm market.

(e) With time, planning, and good management, sheep can do 90% to 100% of the vegetative maintenance work inside the fence, eliminating the need for mowing and reducing emissions and costs.

2) Provide a water well for sheep if public water is not available, and constant access to both water and shelter is required at all times.

3) Seed fenced area with grazing-friendly seed mix, Fuzz & Buzz seed mix or similar.

4) Where applicable, install fencing gates between adjoining solar parcels for moving sheep and line up gates between separately fenced sections of the arrays.

5) Allow your farmer to use portable low-voltage energizers and fences or consider installing low (three foot) interior fences to facilitate best grazing/vegetation management.

6) Consider installing pipe fences and gates around inverter/transformer pads.

7) Adequate humane provisions for sheep must be provided year round.

D. 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) PSES mounted on roofs of any building shall be subject to the maximum height regulations specified for buildings within the applicable zoning district.

E. Local emergency services.

1) The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s). The Applicant shall be responsible for all costs of transferring information to local fire and EMS personnel.

2) The applicant shall cooperate with emergency service providers to develop and coordinate the implementation of an emergency response plan for the solar energy facility and provide appropriate training as necessary to emergency personnel at no cost to the emergency service providers. The emergency response plan shall include a 24/7 emergency qualified professional contact, who is familiar with the site and be available on site within 30 minutes.

F. 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 successor and assigns clause shall be provided. The decommissioning clause must provide sufficient surety bond funds to fully and properly dismantle and remove, and dispose of 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 1 8 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 proper decommissioning.

3) During the operation of the facility, a new engineer's estimate of cost for decommissioning shall be submitted every 5 years to the Township. Upon approval of the estimated costs by the Township's Engineer, a revised surety bond shall be provided to the Township in the amount of 150% of the new estimate, which shall be funded by the PSES.

Section 8. Wind Energy Conversion Systems (WECS)

A WECS may be installed as a Special Exception in the A-I, districts only, and in no other zoning districts. Such approval shall be in accordance with the following requirements:

A. The maximum turbine height of a WECS shall be no taller than one hundred sixty (160) feet in height. The total turbine height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level.

B. The minimum setback for a WECS with a tower not mounted within a body of water shall be 1.5 times the total turbine height from the nearest occupied building, property line, or public or private street right-of-way. For a WECS with a tower mounted within a body of water, the minimum setback shall be 1.5 times the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane from the nearest occupied building, property line, or public or private street right-of-way. NOTE: the total turbine height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the nearest occupied building, property line, or public or private street right-of-way.

C. The following performance standards shall be met for all WECS:

1) All WECS including towers shall comply with all applicable local, state, national, and, if applicable, international construction and electrical codes, and electric utility standards.

2) No WECS shall be installed until evidence has been given to Franklin Township that the electric utility company servicing the property has been informed of the customer's intent to install an interconnected customer-owned generator. Off grid systems shall be exempt from this requirement.

3) All wind turbines shall be equipped with controls to limit the rotational speed of the rotor within the design limits of the turbine.

4) Wind turbines shall remain painted or finished with the non- reflective color that was originally applied by the manufacturer.

5) All signs, other than the manufacturers or installer's identification, appropriate warning signs, or owner identification sign on a wind generator, tower building, or other structure associated with the WECS visible from any public road shall be prohibited.

6) A clearly visible warning sign detailing voltage must be placed at the base of all pad mounted transformers and substations.

7) On-site transmission and power lines between turbines or other structures of buildings shall, to the maximum extent practicable, be placed underground. Cost alone shall not be a determining factor of practicability.

8) Visible, reflective, colored objects, such as flags, reflectors, or tape, shall be placed on the anchor points of guide wires and along the guide wires up to a height of eight (8) feet above the ground.

9) Wind turbines shall not be artificially lit unless the Federal Aviation Administration or other applicable authority regulation air safety requires such lighting.

10) All towers or poles shall be enclosed by an eight and a half (8-1/2) foot fence with a lockable entry by non-authorized persons. Or the lot on which the towers or poles are

located may be enclosed by an eight and a half (8-1/2) foot perimeter fence with a locked entry, and all towers shall have clearance of at least ten (10) feet for any climbing structure (ladder rungs, etc.).

11) The name and telephone number of the current contact person in the event of an emergency shall be always posted at the site.

12) The applicant shall maintain the WECS in good condition. Maintenance shall include, but not limited to painting, structural repairs and safety and security systems.

13) The owner and/or operator of a WECS, at all times, shall maintain a current general liability insurance policy covering bodily injury and property damage caused by or arising from the installation, construction, operation, repair, replacement, maintenance, decommissioning, removal, and/or site restoration of the WECS with limits of at least one million dollars ($ 1,000,000) per occurrence and one million dollars ($ 1,000,000) in the aggregate. A certificate of such insurance shall be supplied to Franklin Township prior to issuance of a permit and a current certificate of insurance shall be supplied to Franklin Township annually within thirty (30) days after the policy anniversary issuance date.

14) The facility owner and operator of a WECS shall maintain a telephone number and identify a responsible person for the public and Franklin Township to contact with inquiries and complaints throughout the life of the project. The facility owner and operator shall make reasonable efforts to respond to inquiries and complaints within two (2) business days by the public and shall respond fully to all inquiries and complaints by Franklin Township.

D. Local emergency services.

1) The applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s). The Applicant shall be responsible for all costs of transferring information to local fire and EMS personnel.

2) The applicant shall cooperate with the emergency service providers to develop and coordinate the implementation of an emergency response plan for the wind energy conversion systems and provide appropriate training as deemed necessary to emergency personnel.

E. In addition to other requirements of this Ordinance, an application for a permit shall meet the following submission requirements:

1. A document providing a description of the proposed WECS shall include the following:

(a) property lines and physical dimensions of the property, including the locations of any existing structures on the property;

(b) location and turbine height of each proposed wind turbine, setback distances, access road and turnout locations, substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback;

1. Governing decommissioning.

- The facility owner and/or operator shall, at its expense, complete decommissioning of the WECS(s) within six (6) months after the end of the useful life of the facility or individual turbine(s) or, if applicable, within six (6) months after termination of any lease or agreement authorizing such use, or within six (6) months after the revocation by Franklin Township of a permit authorizing such use. A WECS 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. The applicant shall be responsible for notifying the Franklin Township Zoning Officer, in writing, of the end of the useful life of the system or, if applicable, the termination of use of such system(s).

(c) all utility lines and/or easements; any public road rights-of- way that are contiguous with the property;

(d) wind system specifications, including manufacturer and model, rotor diameter, tower height and tower type (freestanding or guyed) and approximate generating capacity; and

(e) stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.

2. An affidavit or evidence of agreement between lot owner and the facility's owner or operator confirming that the owner or operator has permission of the property owner to apply for necessary perm its for construction and operation of the WECS.

3. Other relevant studies, reports, certificates, and approvals as may be reasonably requested by Franklin Township include but not limited to documents confirming compliance with all setbacks and performance standards.

4. Documents related to decommissioning, removal, and site restoration, including a schedule for decommissioning, removal, and site restoration.

5. Financial security to ensure such decommissioning, removal, and site restoration as set forth herein.

F. An Applicant for a WECS shall hold a neighborhood informational meeting prior to going before the Board of Supervisors or Zoning Hearing Board. The applicant shall notify all property owners within a 500-foot radius of the property lines of the lot upon which the WECS is proposed to be located. The meeting shall be held within Franklin Township, and the applicant shall explain the exact proposed location of the equipment, outline relevant safety measures, and otherwise answer any

questions the attendants might have. The applicant shall provide evidence of both the mailing and the occurrence of the meeting to the Zoning Hearing Board.

G. The following requirements shall be met for decommissioning:

A zoning permit issued which authorizes this use shall be subject to the condition that the owner shall comply with all applicable regulations of this Ordinance.

1. Decommission shall include removal of wind turbines, building, cabling, electrical components, fencing, roads, foundation to a depth of forty-eight inches (48") below grade, and any other associated facilities.

2. 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.

3. During the operation of the facility, revised engineer's estimate of cost for decommissioning shall be submitted every 5 years to the Township. Upon approval of the new estimated costs by the Township's Engineer, a revised surety bond shall be provided to the Township in the amount of 150% of the new estimate, which shall be funded by the WECS.

4. Facility owner and/or operator shall provide evidence of financial assurance for decommissioning. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to Franklin Township.

Section 9. Administration; fees and costs; enforcement; violations and penalties for Wind and Solar.

A. Applications.

1. Permit applications shall document compliance with this chapter and shall be accompanied by drawings showing the location of the solar energy system on the building or property, including property lines. Permits must 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 which causes the solar energy system not to be in conformity with this chapter. In the case of nonconformity caused by natural forces, the owner shall have a maximum of 90 days to initiate necessary remedial action to bring the system back in conformance with this chapter.

3. The solar energy system 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.

4. For PSES systems, conditional use approval is required prior to obtaining land development plan approval. The conditional use approval and land development plan processes can be concurrent. All necessary stormwater plan approval, E & S and NPDES permits must be approved prior to receiving final Council approval of the land development plan. An approved land development plan is required for application for a zoning permit.

5. ASES systems for single-family residential or off grid wind systems use are exempt from the land development process.

B. Fees and costs.

1. The applicant shall pay all permit application fees and inspection fees when seeking approval of a solar energy and wind systems under this chapter, which fees shall be set by Township resolution.

2. The applicant shall, prior to receipt of an approved permit, sign a Franklin Township developers' agreement and submit funds for a developer's account which will reimburse the 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 and legal fees. Any funds remaining after project completion shall be returned to the developer.

C. Modifications. The Township may grant modification of the requirements of one or more provisions of this chapter 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 chapter is observed. 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 this chapter involved and the minimum modification necessary.

D. Enforcement.

1. Upon the receipt of a written complaint setting forth the existence of unauthorized construction, modification, or use in violation of this chapter, or other notice thereof, the Zoning and Code Enforcement Officer that may be authorized by the Township shall cause written notice to be given either by personal service or registered or certified mail to the applicant of the property upon which the violation exists to immediately cease the construction, modification or the unauthorized use of the solar energy system. Such a written notice shall be required to enforce the remedies set forth in this section. However, the Township shall still be entitled to give a verbal notice for defective systems as authorized above.

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

3. Any applicant who or which shall violate or permit to be violated the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding brought by Franklin Township before a District Magistrate, pay a fine of not more than $1,000, plus all court costs, including reasonable attorney's fees incurred by the Township as a result thereof. No fine shall commence or be imposed, levied, or be payable until the date of the determination of the violation by a District Magistrate. Each day that a violation exists and is continued shall constitute a separate offense, unless the District Magistrate who determines that a violation has occurred further shall determine that there was a good faith basis for the defendant to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination by such District Magistrate, and thereafter every day shall constitute a separate offense.

4. In addition, the Township shall also be entitled to recover from any applicant all the Township's costs or fees (collectively the "costs") arising out of or related to the application or enforcement of this chapter. Such costs may also include those to remedy violations of this chapter 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, or portions thereof, is located.

Section 10. Construction of provisions; 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 chapter and state law are in conflict, then state law shall prevail.

B. It is the intention of the Franklin Township 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 chapter.

Section 11. Repealer

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

Section 12. Effective Date

This chapter shall become effective five days after its enactment.

ENACTED this 21st day of November, 2023 by a majority vote of the Supervisors of Franklin Township, Erie County, Pennsylvania.

Dennis Howard, Supervisor

Robert Simonelli, Supervisor

James Suchar, Supervisor

ATTEST:

Ramona Junkins, Secretary