TIOGA COUNTY NON-RESIDENTIAL SOLAR ENERGY SYSTEMS ORDINANCE 2020-1

AN ORDINANCE OF TIOGA COUNTY, PENNSYLVANIA, FOR THE REGULATION OF NON-RESIDENTIAL SOLAR ENERGY SYSTEMS AND DEFINING TERMS USED HEREIN.

SECTION 1 – INTRODUCTION

WHEREAS, the Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, as amended, 53 P.S. § 10101 et seq., enables a Municipality through its Zoning Ordinance to regulate the use of property and the conservation of energy through access to and use of Renewable Energy Resources; and

WHEREAS, Tioga County, as defined below seeks to promote the general health, safety and welfare of the community by adopting and implementing this Ordinance providing for access to and use of Non-Residential Solar Energy Systems: and

WHEREAS, the purpose of the Ordinance is to set requirements for Non-Residential Solar Energy Systems;

IT IS HEREBY ENACTED AND ORDAINED by the Tioga County Commissioners as follows:

SECTION 2 – DEFINITIONS

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 BUILDING: a building which (1) is subordinate to and serves a principal building; (2) is subordinate in area, extent or purpose to the principal building; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building; and (4) is located on the same lot as the principal building.

GLARE: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed on solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent building. Ground-mounted systems may be appropriate when insufficient space, structural and shading issues, or other restrictions prohibit rooftop solar.

MUNICIPALITY: Tioga County, Pennsylvania

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. Typically, Principal Systems are rated over 10KW (kilowatt).

SOLAR EASMENT: A negotiated legal agreement between affected parties that is designed to protect a landowner's access to sunlight when installing a solar system. Solar easements are not enforceable through a zoning or permitting process.

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

SOLAR ENERGY SYSTEM: An energy system that consists of one or more solar collection devices, solar energy related "balance of system" equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy.

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.

1. SOLAR ARRAY: A grouping of multiple solar modules with the purpose of harvesting 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 – PRINCIPAL SOLAR ENERGY SYSTEMS (PSES)

A. Regulations Applicable to All Principal Solar Energy Systems:

1. PSES shall be permitted as a special use permit.

2. Exemptions

a. 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 any existing PSES, whether or not existing prior to the effective date of this Section that expands the PSES shall require approval

under this Ordinance. Routine maintenance or replacements do not require a permit.

3. 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 Municipality's Building Code, 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 application.

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

5. The owner of a PSES shall provide the Municipality 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 other final approval from the utility company to the Municipality prior to the issuance of a certificate of use and occupancy for the PSES.

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

7. A solar energy system connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.

8. Signage shall comply with the prevailing sign regulations.

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

10. Decommissioning

    a. The PSES owner is required to notify the Borough/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 twelve (12) continuous months.

    b. 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. If the owner fails to dismantle and/or remove the PSES within the

established timeframes, the Municipality may complete the decommissioning at the owner's expense.

c. 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 the Borough/Township 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.

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

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, **OR**,
   b. The PSES shall not be situated on a parcel smaller than 1 acre.

2. Setbacks
   a. PSES shall comply with the setbacks of the applicable zoning districts for principal buildings, **OR**,
   b. PSES shall be setback a minimum of 25 feet from adjacent residential districts.

3. Height
   a. Ground mounted PSES shall comply with the building height restrictions for principal buildings of the applicable zoning district, **OR**,
   b. Ground mounted PSES shall comply with the accessory building height restrictions for the applicable zoning district, **OR**,
   c. Ground mounted PSES shall not exceed 15 feet in height.

4. Impervious Coverage
   a. 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 for the applicable zoning district, **OR**,

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

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

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

iii. Gravel of paved access roads servicing the PSES, **OR**,

c. The surface area of the arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the overall lot coverage requirement for the applicable zoning district.

5. Stormwater

a. The Applicant shall submit a storm water management plan that demonstrates stormwater from the PSES will infiltrate into the ground beneath the PSES at a rate equal to that of the infiltration rate prior to the placement of the system.

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

6. Screening

a. Ground mounted PSES shall be screened from adjoining residential uses or zones according to the standards found in the controlling ordinance, **OR**,

b. Ground mounted PSES 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 fence that provides visual screening and meets requirements of the controlling ordinance may be used.

7. 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.

8. Security

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

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.

9. Access drives are required to allow for maintenance and emergency management vehicles. A recommended minimum cartway width is 14 feet.

10. 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 graded and re-seeded.

C. 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 principal and accessory buildings within the applicable zoning district.

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

SECTION 4 – 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 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 Ordinance.

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. An approved Land Development plan shall accompany all permit applications.

B. Fees and Costs

1. The Applicant shall pay all permit application fees and inspection fees when seeking approval of a solar energy system under this Ordinance, which fees shall be set by resolution.

2. The Applicant shall, prior to receipt of an approved permit, reimburse the Municipality 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. Enforcement

Any person, partnership, or corporation who or which has violated the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement initially brought before a district justice by the Commission, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the Commission as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Commission may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance 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 the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

SECTION 5 – 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 the Tioga County Commissioners 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 6 – REPEALER

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

SECTION 7 – EFFECTIVE DATE

The Tioga County Non-Residential Solar Energy Systems Ordinance as amended shall become effective 12/15/2020. This Ordinance shall apply to all Non-Residential Solar Energy System Plans submitted on or after 12/15/2020.

This ordinance ordained and enacted and amended by the Tioga County Board of Commissioners.

Tioga County Board of Commissioners:

Erick J. Coolidge — 12/15/2020

Mark L. Hamilton — 12/15/2020

Roger C. Bunn — 12/15/2020

Attest: _____
Raymond E. Ginn Jr., Solicitor

Witnessed: _____ 12/15/2020
Derek D. Williams, Chief Clerk

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