

ORDINANCE NO. 2020-2

AN ORDINANCE OF THE TOWNSHIP OF SOMERSET, SOMERSET COUNTY, PENNSYLVANIA REGULATING THE CONSTRUCTION, OPERATION, AND DECOMMISSIONING OF SOLAR ENERGY SYSTEMS AND PROVIDING PENALTIES FOR VIOLATIONS HEREOF

WHEREAS, the Board of Supervisors of Somerset Township, Somerset County, Pennsylvania (the “Township”) believes it to be in the best interests of the Township and the health, welfare, and safety of its citizenry to regulate the construction, operation, and decommissioning of Solar Energy Systems, and to pass an Ordinance in accordance with law; and

WHEREAS, it is hereby expressly declared that it is not the purpose or intention of the Board of Supervisors of this Township or the Township, itself, to discriminate against or in any way to impose undue hardship upon any individual, company, firm, association, corporation, or other business entity in passing such an Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Somerset, Somerset County, Pennsylvania, pursuant to the authority granted to it under Pennsylvania’s Second Class Township Code, 53 P.S. §§ 65101 *et seq.*, and it is hereby ordained and enacted by the authority of the same as follows:

SECTION 1: TITLE AND PURPOSE

This Ordinance shall be known as the “Somerset Township Solar Energy System Ordinance.” The purpose of this Ordinance is to provide requirements for the construction, operation, and decommissioning of Solar Energy Systems in the Township, subject to reasonable conditions that will protect the public health, safety, and welfare.

SECTION 2: DEFINITIONS

The following terms and phrases as used in this Ordinance shall have the meaning subscribed to them as set forth herein:

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 reflected light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility on neighboring properties or public roadways.

PERSON: Any natural person, corporate entity, business entity, firm, or association of persons or entities.

PRINCIPAL SOLAR ENERGY SYSTEM (“PSES”): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

SOLAR EASEMENT: A solar easement means 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 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.

- 1) **SOLAR ARRAY:** A grouping of multiple solar modules with 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.

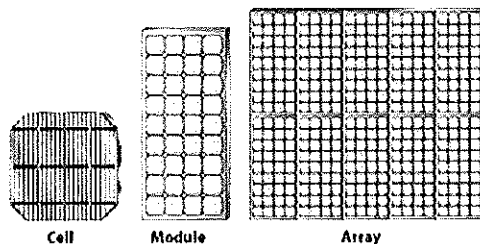


Illustration from U.S. Department of Energy

TOWNSHIP: The Township of Somerset, Somerset County, Pennsylvania.

SECTION 3: ACCESSORY SOLAR ENERGY SYSTEMS

A. Regulations Applicable to All Accessory Solar Energy Systems

1. ASES shall be permitted in the Township, provided that a person desiring to construct and use ASES shall first obtain a permit from the Township and pay its applicable administrative fee for issuance of the same, which fee may be established by the Township by Resolution and amended thereafter by subsequent Resolution as determined necessary by the Board of Supervisors, unless such ASES are exempt as set forth in Section 3(A)(2) of this Ordinance.

2. Exemptions. ASES constructed prior to the effective date of this Ordinance or which do not encompass greater than one-fourth (0.25) of an acre in size 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 Ordinance, that materially alters the ASES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

3. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code and its supporting regulations, as amended, and with all other applicable federal, state, and local laws and regulations. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards established by any applicable federal, state, or local law, rule, or regulation, as amended. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by the Township.

4. ASES installers must certify that they are listed as a certified installer on the Commonwealth of Pennsylvania, Department of Environmental Protection ("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);

b. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV

manufacturer's training program and successfully installed a minimum of three PV systems; or

c. For residential applications, a registered home improvement contractor with the Pennsylvania Attorney General's Office.

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

6. The owner of an ASES shall provide the Township with 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.

7. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

8. Glare shall be prevented or minimized to the extent possible.

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.

9. Solar Easements.

a. Where an applicable subdivision or land development proposes ASES, 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.

b. 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 solar easement shall include but not be limited to:

i. 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;

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

iii. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

iv. 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.

c. 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).

10. Prior to the issuance of a permit by the Township, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the applicant, 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.

11. Decommissioning. Unless satisfactory evidence is furnished to the Township that the ASES owner and/or operator has included in a lease agreement or other agreement with the landowner a provision for sufficient financial security to cover the costs of decommissioning all improvements or common amenities including, but not limited to, the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original, which provision is at least as stringent as the requirements set forth below, and unless satisfactory evidence has been furnished to the Township that such security has, in fact, been provided, the following requirements must be met:

a. Before a permit may be approved and/or issued to an ASES owner and/or operator, the said owner and/or operator must submit to the Township financial security (which shall be in addition to any other financial security required pursuant to any applicable subdivision and land development ordinance) which shall be deposited with the Township in an amount sufficient to cover the costs of decommissioning all improvements or common amenities including, but not limited to, the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original.

b. Such financial security shall be in the form of cash, an irrevocable letter of credit, or a bond, satisfactory in form to the Township Solicitor whose review of same shall be reimbursed to the Township by the owner and/or operator, and posted with a bonding company chosen by the party posting the financial security, provided that said bonding

company is authorized to conduct such business with the Commonwealth of Pennsylvania.

- i. Such bond shall provide for and secure to the Township the decommissioning of the improvements.
- ii. The amount of the bond to be posted for the decommissioning of any improvements shall be equal to one hundred ten (110%) percent of the estimated cost thereof. The Township may adjust the required amount of the bond by Resolution every three (3) years. Subsequent to said adjustment, the Township may require the ASES owner and/or operator to post additional security in the form of an increased bond in order to assure that the financial security equals said one hundred ten (110%) percent. Any additional security shall be posted by the ASES owner and/or operator in accordance with this subsection and any additional review of any future bond form by the Township's Solicitor shall be reimbursed by the ASES owner and/or operator to the Township.
- iii. The amount of financial security required shall be based upon an estimate of the cost of decommissioning of any improvements, submitted by the ASES owner and/or operator and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the ASES owner and/or operator and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Township and the ASES owner and/or operator. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the ASES owner and/or operator.
- iv. As the work of decommissioning of any improvements proceeds, the party posting the bond may request the governing body to release, or authorize the release, from time to time, such portions of the bond(s) necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Board of Supervisors and the Board of Supervisors shall request the municipal engineer to certify, in writing, to the Board of Supervisors that such portion of the decommissioning of any improvements has been completed. Upon such certification, the Board of Supervisors shall authorize release by the bonding company or bank of an amount as estimated by the municipal engineer fairly representing the value of the decommissioning of any improvements.

- v. The owner of any participating property which is subject to decommissioning shall be given the option to keep the road(s) created on such owner's property by or in connection with construction of any ASES.
 - vi. When the ASES owner and/or operator has completed the decommissioning of all improvements, such owner and/or operator shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid decommissioning of all improvements and shall send a copy thereof to the municipal engineer. The Board of Supervisors shall direct and authorize the municipal engineer to inspect the site. The municipal engineer shall indicate to the Township approval or rejection of said decommissioning of all improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such non-approval or rejection.
 - vii. The Board of Supervisors shall notify the ASES Owner and/or Operator as to the municipal engineer's acceptance or rejection of the decommissioning. If the decommissioning is acceptable, the Township shall release the bond. If the decommissioning is not acceptable, the ASES owner and/or operator shall, within thirty (30) days of notice by the Township of the deficiencies, correct the same and in the event the said deficiencies are not so corrected within the said time period, the Township may utilize the bond to accomplish the same as set forth herein.
 - viii. All disposal of ASES components shall be in accordance with all applicable federal, state, and local laws, rules, and regulations.
- c. In the event that any required decommissioning of improvements has not been completed as provided in this Ordinance, the Board of Supervisors of the Township is hereby granted the power to enforce any corporate bond or otherwise leverage the financial security required hereunder. If proceeds of such financial security are insufficient to pay the cost of decommissioning of improvements covered by said security, the Board of Supervisors of the Township may, at its option, proceed with the decommissioning of all improvements and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements, including but not limited to the placement of a municipal lien.
- d. The ASES owner and/or operator shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of decommissioning of improvements, including review of any plans, documents, or materials by the municipal engineer and/or Solicitor in connection therewith, as well as view of the site, if necessary. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or Solicitor for work performed for similar services performed for the Township.

e. As used herein, the “municipal engineer” shall be a duly registered professional engineer appointed by the Township or one engaged by the Township as a consultant.

f. Each ASES and all solar related equipment shall be removed by the owner and/or operator within twelve (12) months of the date that the use of the same has been discontinued or abandoned or upon expiration of the useful life of the same.

g. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such ASES for a period of twelve (12) continuous months or if no electricity is generated by such ASES for a nonconsecutive period of 365 days over an eighteen (18)-month period.

h. The ASES owner shall, at the request of the Township, provide documentation to the Township sufficient to show the daily amounts of energy generated by the ASES over the immediately preceding twenty-four (24) months.

12. Permit Requirements.

a. General Requirements

i. ASES permit applications shall document compliance Section 3 of this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

ii. ASES shall comply with the County and/or Township subdivision and land development requirements. The installation of ASES shall be in compliance with all other applicable federal, state, and local laws, rules, codes, and regulations.

iii. The ASES owner and/or operator shall repair, maintain and replace the ASES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the ASES in good repair and operating condition. The ASES must also be properly maintained and kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Township shall give written notice to the ASES owner and/or operator specifying the violation to the owner and/or operator of the ASES and permitting thirty (30) days for the ASES to conform to the law or to remove the ASES.

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 any applicable airport hazard zoning ordinance or similar ordinance.

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

4. Roof-mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.

5. 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 and that the roof or wall is capable of holding the load imposed on the structure.

C. Ground-Mounted Accessory Solar Energy Systems

1. Setbacks. The minimum setbacks from front, side, and rear property lines shall be those which comply with the Somerset County Subdivision and Land Development Ordinance, as amended. The minimum setback for any ground-mounted ASES from any public highway shall be fifty (50) feet as measured from the base thereof.

2. Storm Water.

a. Regardless of the mounted angle of any solar panels, all ground mounted ASES shall be considered impervious and calculated in the lot coverage of the lot on which the system is located.

b. The applicant shall submit a storm water management plan that demonstrates compliance by the ground-mounted ASES with any applicable municipal storm water management regulations.

3. Screening. Ground-mounted ASES shall be screened from any adjacent property that is utilized as a residence. The screen shall consist of plant materials which screen the facility from view from such adjacent properties. In lieu of a planting screen, a decorative fence may be used.

4. Signage/Security. Appropriate safety/warning signage concerning voltage shall be placed in the immediate vicinity of ground-mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

5. Ground-mounted ASES 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.

SECTION 4: PRINCIPAL SOLAR ENERGY SYSTEMS

A. Regulations Applicable to all Principal Solar Energy Systems

1. PSES shall be permitted in the Township, provided that a person desiring to construct and use PSES shall first obtain a permit from the Township and pay its applicable administrative fee for issuance of the same, which fee may be established by the Township by Resolution and amended thereafter by subsequent Resolution as determined necessary by the Board of Supervisors, unless such PSES are exempt as set forth in Section 4(A)(2) of this Ordinance.

2. Exemptions. PSES permitted, if necessary, and constructed prior to the effective date of this Ordinance or which, as constructed, cover a quarter (0.25) of any acre or less 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 Ordinance, that materially alters the PSES shall require approval under this Ordinance. Routine maintenance or like-kind 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 agency, shall comply with the PA Uniform Construction Code as enforced by the Township and with all other applicable fire and safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

4. PSES installers must demonstrate they are listed as a certified installer on the 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); or

b. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

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

6. The owner of a PSES shall provide the Township with written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

7. No portion of the PSES shall contain or be used to display advertising. 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.

8. Glare shall be prevented or minimized to the extent possible.

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.

9. Solar Easements.

a. Where an applicable subdivision or land development proposes 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.

b. 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 solar easement shall include but not be limited to:

i. 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;

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

iii. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

iv. 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.

c. 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).

10. A noise study will be performed and included in the application. The noise study will be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 10 dBA above background as measured at the property line.

11. 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.

12. 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 the Borough/Township. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

13. Decommissioning. Unless satisfactory evidence is furnished to the Township that the PSES owner and/or operator has included in a lease agreement or other agreement with the landowner a provision for sufficient financial security to cover the costs of decommissioning all improvements or common amenities including, but not limited to, the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original, which provision is at least as stringent as the requirements set forth below, and unless satisfactory evidence has been furnished to the Township that such security has, in fact, been provided, the following requirements must be met:

a. Before a permit may be approved and/or issued to an PSES owner and/or operator, the said owner and/or operator must submit to the Township financial security (which shall be in addition to any other financial security required pursuant to any applicable subdivision and land development ordinance) which shall be deposited with the Township in an amount sufficient to cover the costs of decommissioning all improvements or common amenities including, but not limited to, the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original.

b. Such financial security shall be in the form of cash, an irrevocable letter of credit, or a bond, satisfactory in form to the Township Solicitor whose review of same shall be reimbursed to the Township by the owner and/or operator, and posted with a bonding company chosen by the party posting the financial security, provided that said bonding company is authorized to conduct such business with the Commonwealth of Pennsylvania.

i. Such bond shall provide for and secure to the Township the decommissioning of the improvements.

ii. The amount of the bond to be posted for the decommissioning of any improvements shall be equal to one hundred ten (110%) percent of the estimated cost thereof. The Township may adjust the required amount of the bond by Resolution every three (3) years. Subsequent to said adjustment, the Township may require the PSES owner and/or operator to post additional security in the form of an increased bond in order to assure that the financial

security equals said one hundred ten (110%) percent. Any additional security shall be posted by the PSES owner and/or operator in accordance with this subsection and any additional review of any future bond form by the Township's Solicitor shall be reimbursed by the PSES owner and/or operator to the Township.

- iii. The amount of financial security required shall be based upon an estimate of the cost of decommissioning of any improvements, submitted by the PSES owner and/or operator and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the PSES owner and/or operator and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Township and the PSES owner and/or operator. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the PSES owner and/or operator.
- iv. As the work of decommissioning of any improvements proceeds, the party posting the bond may request the governing body to release, or authorize the release, from time to time, such portions of the bond(s) necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Board of Supervisors and the Board of Supervisors shall request the municipal engineer to certify, in writing, to the Board of Supervisors that such portion of the decommissioning of any improvements has been completed. Upon such certification, the Board of Supervisors shall authorize release by the bonding company or bank of an amount as estimated by the municipal engineer fairly representing the value of the decommissioning of any improvements.
- v. The owner of any participating property which is subject to decommissioning shall be given the option to keep the road(s) created on such owner's property by or in connection with construction of any PSES.
- vi. When the PSES owner and/or operator has completed the decommissioning of all improvements, such owner and/or operator shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid decommissioning of all improvements and shall send a copy thereof to the municipal engineer. The Board of Supervisors shall direct and authorize the municipal engineer to inspect the site. The municipal engineer shall indicate to the Township approval or rejection of said decommissioning of all improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal

engineer, said report shall contain a statement of reasons for such non-approval or rejection.

vii. The Board of Supervisors shall notify the PSES Owner and/or Operator as to the municipal engineer's acceptance or rejection of the decommissioning. If the decommissioning is acceptable, the Township shall release the bond. If the decommissioning is not acceptable, the PSES owner and/or operator shall, within thirty (30) days of notice by the Township of the deficiencies, correct the same and in the event the said deficiencies are not so corrected within the said time period, the Township may utilize the bond to accomplish the same as set forth herein.

viii. All disposal of PSES components shall be in accordance with all applicable federal, state, and local laws, rules, and regulations.

c. In the event that any required decommissioning of improvements has not been completed as provided in this Ordinance, the Board of Supervisors of the Township is hereby granted the power to enforce any corporate bond or otherwise leverage the financial security required hereunder. If proceeds of such financial security are insufficient to pay the cost of decommissioning of improvements covered by said security, the Board of Supervisors of the Township may, at its option, proceed with the decommissioning of all improvements and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements, including but not limited to the placement of a municipal lien.

d. The PSES owner and/or operator shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of decommissioning of improvements, including review of any plans, documents, or materials by the municipal engineer and/or Solicitor in connection therewith, as well as view of the site, if necessary. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or Solicitor for work performed for similar services performed for the Township.

e. As used herein, the "municipal engineer" shall be a duly registered professional engineer appointed by the Township or one engaged by the Township as a consultant.

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

g. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such PSES for a period of twelve (12) continuous months or if no electricity is generated by such PSES for a nonconsecutive period of 365 days over an eighteen (18)-month period.

h. The PSES owner shall, at the request of the Township, provide documentation to the Township sufficient to show the daily amounts of energy generated by the PSES over the immediately preceding twenty-four (24) months.

14. Permit Requirements.

a. General Requirements

- i. PSES permit applications shall document compliance Section 4 of this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the PSES is constructed.
- ii. PSES shall comply with the County and/or Township subdivision and land development requirements. The installation of PSES shall be in compliance with all other applicable federal, state, and local laws, rules, codes, and regulations.
- iii. 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. The PSES must also be properly maintained and kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Township shall give written notice to the PSES owner and/or operator specifying the violation to the owner and/or operator of the PSES and permitting thirty (30) days for the PSES to conform to the law or to remove the PSES.

B. Roof-Mounted and Wall-Mounted Principal Solar Energy Systems

1. PSES mounted on roofs or walls of any building shall be subject to any applicable airport hazard zoning ordinance or similar ordinance.
2. Solar panels shall not extend beyond any portion of the roof edge.
3. Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
4. 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 and that the roof or wall is capable of holding the load imposed on the structure.

C. Ground-Mounted Accessory Solar Energy Systems

1. Setbacks. The minimum setbacks from front, side, and rear property lines shall be those which comply with the Somerset County Subdivision and Land Development Ordinance, as amended. The minimum setback for any ground-mounted PSES from any public highway shall be fifty (50) feet as measured from the base thereof.

2. Storm Water.

a. Regardless of the mounted angle of any solar panels, all ground mounted PSES shall be considered impervious and calculated in the lot coverage of the lot on which the system is located.

b. The applicant shall submit a storm water management plan that demonstrates compliance by the ground-mounted PSES with any applicable municipal storm water management regulations.

3. Screening. Ground-mounted PSES shall be screened from any adjacent property that is utilized as a residence. The screen shall consist of plant materials which screen the facility from view from such adjacent properties. In lieu of a planting screen, a decorative fence may be used.

4. Signage/Security. Appropriate safety/warning signage concerning voltage shall be placed in the immediate vicinity of ground-mounted electrical devices, equipment, and structures. All electrical control devices associated with the PSES shall be locked to prevent unauthorized access or entry.

5. 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.

6. Access.

a. At a minimum, a twenty-five (25)-foot wide access road must be provided from a state or Township roadway into the site and a cul-de-sac built on-site sufficient in size to permit large and emergency vehicles to turn around and exit the same. To the extent that the Somerset County Subdivision and Land Development Ordinance provides dimensions or size of turning radius for a cul-de-sac in any land development, such dimensions or size as used therein shall control here.

b. Access to the PSES shall otherwise comply with the municipal access requirements in any applicable subdivision and land development ordinance or similar ordinance.

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

8. In addition to in applicable decommissioning requirements set forth in Section 4(A)(13) herein, if a ground-mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

SECTION 5: REMEDIES

1. It shall be unlawful for any person to violate or fail to comply with or take any action which is contrary to the terms of this Ordinance, or any permit issued hereunder, or cause another to violate or fail to comply, or to take any action that is contrary to the terms of this Ordinance or any permit issued hereunder.

2. If the Township determines that a violation of this Ordinance or any permit issued hereunder has occurred, the Township shall serve a written notice of violation(s) upon the offending person(s).

3. If the aforementioned notice of violation(s) is not resolved by the offending person(s) within the time period specified the Township therein, the Township may initiate civil enforcement proceedings or any other remedy at law or in equity, including but not limited to injunctive relief, to ensure compliance with this Ordinance or any permit issued hereunder.

SECTION 6: ENFORCEMENT AND PENALTIES

1. Any person authorized by the Township may enforce the provisions of this Ordinance or any permit issued hereunder.

2. Civil Enforcement. When a penalty imposed for a violation of this Ordinance or any permit issued hereunder is not voluntarily paid to the Township, the Township may initiate a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. When enforcement is through a civil enforcement proceeding as provided hereunder, the Township may seek civil penalties not to exceed Six Hundred and 00/100 (\$600.00) Dollars per violation. In addition to, or in lieu of, civil actions before a District Justice, the Township may enforce this Ordinance or any permit issued hereunder in equity. In any case where a penalty for a violation of this Ordinance or any permit issued hereunder has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. The Township shall be exempt from the payment of costs in any civil case brought to enforce an ordinance in accordance with this paragraph.

3. Enforcement as Summary Offense. Notwithstanding any other provision herein, the Township may enforce this Ordinance or any permit issued hereunder by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the

prosecution without the consent of the District Attorney as typically required under Pa.R.Crim.P. No. 454 (relating to trial in summary cases). The Township may seek criminal fines not to exceed One Thousand and 00/100 (\$1,000.00) Dollars per violation and imprisonment to the extent allowed by law for the punishment of summary offenses.

4. Separate Offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Ordinance or any permit issued hereunder is found to exist or for each Section or subsection of this Ordinance or any permit issued hereunder which is found to have been violated.

5. All fines and penalties collected for the violation of this Ordinance or any permit issued hereunder shall be paid to the Township Treasurer.

SECTION 7: SEVERABILITY

1. If any section, clause, phrase, portion or provision of this Ordinance is for any reason determined by a Court of Competent jurisdiction to be invalid, such holding shall not affect the validity of the remaining portions of the Ordinance.

SECTION 8: REPEALER

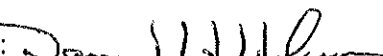
1. All prior ordinances, parts of ordinances, resolutions, or other official actions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 9: EFFECTIVE DATE


1. This Ordinance shall become effective upon adoption and shall continue until amended or repealed by the Board of Supervisors of the Township of Somerset.

ORDAINED AND ENACTED into law by the Board of Supervisors of the Township of Somerset in lawful session assembled this 10th day of December, 2020.


TOWNSHIP OF SOMERSET

BY: 
Daniel H. Halverson, Chairman


Donald K. Miller, Vice-Chairman


Randy Beistel, Supervisor

ATTEST:


Tami L. Yutzy, Secretary