

TOWNSHIP OF MAXATAWNY, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE TOWNSHIP OF MAXATAWNY, BERKS COUNTY, PENNSYLVANIA, TO AMEND THE MAXATAWNY TOWNSHIP ZONING ORDINANCE OF 2012, AS AMENDED, BY MODIFYING OR REVISING ARTICLE X- ALTERNATIVE ENERGY AND DOMESTIC ANIMALS

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§10101 *et seq.*, enables a municipality through its zoning ordinance to regulate the uses of property; and

WHEREAS, the Board of Supervisors of the Township of Maxatawny desires to amend the Maxatawny Township Zoning Ordinance of 2012, as amended, to modify and/or revise Article X- Alternative Energy and Domestic Animals.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Maxatawny, Berks County, Pennsylvania, pursuant to the authority conferred by the Municipalities Planning Code, that the following be and is hereby adopted:

SECTION 1. The Maxatawny Township Zoning Ordinance of 2012, as amended, Article X entitled "Alternative Energy and Domestic Animals", Section 1001.7, entitled "Solar Energy Fields", is amended in its entirety to read as follows:

1001.7 Solar Energy Fields – are systems which exist solely to generate energy for sale back into the energy grid system, rather than being consumed onsite.

- (a) Exemptions. Solar energy fields constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing solar energy field that materially alters the solar energy field shall require approval under this Ordinance.
- (b) Compliance with Industry Standards. The solar energy field layout, design and installation shall conform to applicable industry standards including the American National Standards Institute (ANSI), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), and shall comply with the PA Uniform Construction Code as enforced by Maxatawny Township. The manufacturer specifications for the key components of the system shall be submitted as part of the building permit application.

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

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

(d) Maintain in Good Working Order.

1. Upon completion of installation, the Applicant shall provide an Operations and Maintenance agreement to the Township which shall set forth operations parameters, the names of the certified operator, inspection protocol, emergency procedures and general safety documentation. The solar energy field shall be maintained in good working order in accordance with the standards of Maxatawny Township, including the International Property Maintenance Code. Failure of the owner to maintain the solar energy field in good working order is grounds for appropriate enforcement actions by Maxatawny Township.
2. An annual report shall be submitted to the Township of Maxatawny including system output data and maintenance logs.

(e) Underground Requirements. All on-site transmission and utility lines shall be placed underground in conduits.

(f) Utility Notification. Prior to land development approval, the owner of a solar energy field shall provide Maxatawny Township with written confirmation that the public utility company to which the solar energy field will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

(g) Signage. No portion of the solar energy field shall contain or be used to display signage, except as follows:

1. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the solar energy field provided they comply with the prevailing sign regulations of this Ordinance.
2. Directional signage, safety/warning signage, and signage in parking areas may be placed throughout the site provided they comply with the prevailing sign regulations of this Ordinance.
3. A sign with a maximum area of twelve (12) square feet shall be placed at the entrance to the facility displaying the owner/operator of the facility as well as an address, phone number, and website to contact.

(h) Glare.

1. All solar energy fields shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. A glare analysis demonstrating, through components design, position/placement, or mitigation measures, that any glare produced by the solar energy system will not have an adverse impact, shall be submitted to the Township of Maxatawny prior to land development approval.
3. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through position/placement or mitigation.

(i) Noise.

1. Solar Energy Fields shall comply with the noise and vibration regulations under Section 501.10(e) of this Zoning Ordinance.
2. The Township of Maxatawny may require noise study to be performed and provided prior to land development approval. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a solar energy field shall not constitute amount which disturbs a reasonable person of normal sensitivities, and which serves as an unreasonable interference with a right common to the general public, or which shall constitute a

danger or potential danger to the health, safety, or welfare of the citizens of Maxatawny Township.

- (j) Tree and Landscaping Removal. No trees or other landscaping otherwise required by the municipal ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a solar energy field.
- (k) Contact Information. The solar energy field 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 Maxatawny Township. The solar energy field owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- (l) Solar Easements. Where a subdivision or land development proposes a solar energy field, solar easements may be provided. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar easement shall include but not be limited to:
 - 1. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed. This shall include a weekly log of sun position during angular calculations;
 - 2. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 - 3. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;
 - 4. Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

If required, a solar energy field 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).

(m) Decommissioning.

1. Each solar energy field and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.
2. The solar energy field owner is required to notify Maxatawny Township immediately upon cessation or abandonment of the operation. The solar energy field shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
3. A demolition permit must be approved and issued by the Township of Maxatawny prior to the demolition and removal of any site improvements.
4. The solar energy field owner shall then have twelve (12) months in which to dismantle and remove the solar energy field including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original without re-introduction of invasive species. The species of existing vegetation shall be included on an existing conditions plan, which shall be referenced during the restoration process. If the owner fails to dismantle and/or remove the solar energy field and restore the land within the established time frames, Maxatawny Township may complete the decommissioning and land restoration at the owner's expense to include Court costs and reasonable attorney's fees.
5. Prior to land development approval, a decommissioning plan including the anticipated life of the solar energy field, conditions under which decommissioning will be initiated (e.g. expiration of land lease, intent to abandon, etc.), a description of the manner of disposal of structures, equipment, and materials, a description of activities for the restoration of property to predevelopment

conditions, identification of entity responsible for decommissioning and acknowledgement of requirement for written notice to the Township 60 days in advance of a change in project ownership/decommissioning responsibility, and an estimated decommissioning cost (excluding salvage value of materials and equipment), shall be provided to the Township of Maxatawny. Upon acceptance by the Board of Supervisors, the decommissioning plan shall be recorded by the Recorder of Deeds.

6. At the time of issuance of the building permit for the construction of the solar energy field, the owner shall provide financial security in the form and amount acceptable to Maxatawny Township to secure the expense of dismantling and removing said Solar Energy Field and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original. A cost estimate for decommissioning shall be provided to Maxatawny Township during the land development process to determine the amount of financial security. The financial security amount shall be reevaluated every five (5) years to account for inflation and market changes. Every five (5) years, a revised cost estimate shall be submitted to Maxatawny Township for review. If acceptable to the Township, the financial security amount shall be revised to match the new cost estimate.
7. The solar energy field owner shall, at the request of Maxatawny Township provide information concerning the amount of energy generated by the solar energy field in the last 12 months.

(n)

Development and Permit Requirements.

1. Solar energy fields shall comply with Maxatawny Township zoning and subdivision and land development requirements and must go through the subdivision and land development review and approval process.
2. Land development plans and building permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the solar energy field on the property, including the direction of panels and type of panels. Permits and plans shall be kept on the premises where the solar energy field is constructed or, where land is unimproved, at the principal office or residence of the landowner.

3. Details and specifications for the proposed solar energy field system, specifically indicating the type of panels proposed, shall be shown on the land development plans and included in the building permit application.
4. Prior to the issuance of a building permit, solar energy field applicants must acknowledge in writing that the issuing of said permit shall not and does not guarantee 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 the right to prohibit the development on or growth of any trees or vegetation on such property.
5. Routine maintenance or like-kind maintenance replacements do not require a permit.
6. The applicant shall provide the Township with a list of chemical contents of the solar panels, as well as a remediation plan to mitigate any chemical leaks if panels become damaged.
7. The applicant shall provide a baseline environmental assessment and process for monitoring the solar energy field system.

(o) Ground Mounted Solar Energy Fields Standards.

1. Lot Size. A minimum lot size of five (5) acres is required.
2. Setbacks. Solar energy field shall comply with the setbacks of the underlying zoning district for principal structures, however, they must be placed a minimum of one hundred feet (100') from the property line of any and all existing residential dwelling(s).
3. Height. Solar panels in a ground mounted solar energy field shall not exceed a height of twenty feet (20'), measured from grade to the highest point on the panel. A minimum clearance of three feet (3') must be maintained from the ground to the lowest point of the solar panel for maintenance purposes. Accessory structures for a ground mounted solar energy field shall not exceed a height of fifteen feet (15').
4. Coverage. Ground mounted solar energy field panels are considered impervious cover under this Ordinance and the Stormwater Management Ordinances of Maxatawny. The site must comply with

zoning coverage requirements of the underlying zoning district. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations. All efforts shall be made to infiltrate stormwater runoff on site. Solar energy field owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.

5. Screening. Ground-Mounted solar panel field shall be screened and buffered in accordance with the following standards:

Ground mounted solar energy fields shall be screened from adjoining residential uses or zones by placement of a fence, at least seven (7) feet in height, that is sufficiently opaque to prohibit a person at ground level from seeing through it. The fence shall be black or green unless otherwise approved by the Township of Maxatawny.

A vegetative buffer shall be required to be installed along the exterior side of the fencing. All required vegetative buffering shall be located within fifty (50) feet of the required fencing.

If determined by the Township of Maxatawny that existing trees within the vegetative buffering area are sufficient to screen the solar energy field from view from a public roadway or residential building, this existing vegetation may be used as the required buffer. The applicant may also supplement sparse areas with new vegetation to fill any gaps in an existing vegetative border.

Vegetative buffering should be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape where the facility is proposed. The applicant shall document, photograph, and assess the species in existing tree lines, hedge rows, and wooded areas surrounding the solar energy field and design the buffer with similar characteristics. The species of existing vegetation shall be included on the existing conditions plan.

Legacy vegetation such as witness trees or hedgerows, and historic structures shall be integrated into the design of the solar energy field.

No less than 20% of vegetative buffering plantings shall be pollinator friendly species.

Buffers shall meet the requirements of this Section, as well as the requirements of this Ordinance and the Subdivision and Land Development Ordinance.

6. Location Restrictions

Ground-mounted solar energy fields 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.

Ground-mounted solar energy fields shall not be placed on land with slopes greater than 15%.

Ground-mounted solar energy fields shall be located within 2 miles of substations or transmission lines.

Ground-mounted solar energy fields shall not be placed within 50 feet of a wetland.

Ground-mounted solar energy fields shall not be placed within floodways, as identified in the FEMA FIRM mapping.

Ground mounted solar energy fields shall not be located within wooded areas greater than 2 acres that would require removal of greater than 20% of mature trees.

Ground mounted solar energy fields shall not be permitted in the front yard between a principle building and a public street.

Solar energy fields constructed on a property with prime agricultural soils must leave at least 50% of the prime agricultural soil area for agricultural use.

7. Security

All ground-mounted solar energy fields shall be completely enclosed by a minimum seven (7) foot high fence with a self-locking gate. The fence shall be black or green unless otherwise approved by the Township of Maxatawny.

A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the solar energy field informing individuals of potential voltage hazards.

8. Access.

At a minimum, a 24' wide access drive must be provided from a state or township roadway into the site.

At a minimum, a 20' wide accessway shall be provided between the solar arrays and around the inside perimeter of the fence. An accessway is a clear path, designed and maintained to be free of obstructions, for the purpose of allowing access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. This accessway may be paved, as required by the Board of Supervisors. Accessway width is the projected horizontal distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

Access to the solar energy field shall comply with the municipal access requirements in the Subdivision and Land Development Ordinance.

9. Lighting. The ground mounted solar energy field shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

(p) Roof and Wall Mounted Solar Energy Fields Standards.

1. 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 Maxatawny Township that the roof or wall is capable of holding the load imposed on the structure. Applications for roof or wall mounted solar energy field shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof or wall to hold the weight of the solar energy field.
2. Solar energy fields mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

SECTION 2. The Maxatawny Township Zoning Ordinance of 2012, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of such Zoning Ordinance upon enactment.

SECTION 3. Repealer: All Ordinances or parts of ordinances inconsistent herewith are hereby repealed.

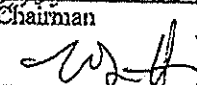
SECTION 4. Severability. If any section, subsection, clause, sentence, paragraph or part of this Ordinance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect, impair or invalidate the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Board of Supervisors that this Ordinance would have been adopted had such provisions not been included herein.

SECTION 5. Effective Date. This Ordinance shall become effective five (5) days after enactment, as provided by law.

ENACTED AND ORDAINED as an Ordinance of Maxatawny Township, Berks County,
Pennsylvania, this 14th day of October, 2024.

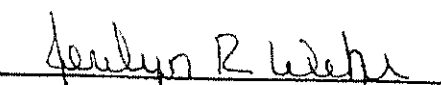
BOARD OF SUPERVISORS OF
MAXATAWNY TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA


Chairman


Vice Chairman

Member

ATTEST:


Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2024-04
adopted by the Board of Supervisors of Maxataway Township, Berks County, Pennsylvania at a
public meeting held on October 14, 2024, pursuant to notice as required by law.

Dated: 10/14/2024

Carolyn R. Wehr
Township Secretary

CERTIFICATION

The undersigned, Solicitors for the Township of Maxatawny, hereby certify that attached hereto is a true and correct copy of the attached proposed Ordinance of the Township of Maxatawny.

MASANO BRADLEY, LLP

Dated: September 17, 2024

By: 

Christopher C. Minvdi, Esquire
Masano + Bradley, LLP