

**BETHEL TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE No. 239

AN ORDINANCE OF BETHEL TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AMENDING THE BETHEL TOWNSHIP ZONING ORDINANCE OF 2008 AND THE BETHEL TOWNSHIP SUBDIVISION REGULATIONS OF 1977 TO: REVISE THE TANK FARM DISTRICT USE REGULATIONS TO PERMIT GROUND MOUNTED SOLAR ENERGY SYSTEMS AS A CONDITIONAL ACCESSORY USE IN THE T TANK FARM DISTRICT; ESTABLISH GENERAL CONDITIONAL USE STANDARDS; ESTABLISH CONDITIONAL USE STANDARDS PARTICULARLY APPLICABLE TO GROUND MOUNTED SOLAR SYSTEMS; ESTABLISH CONDITIONAL USE PROCEDURES; ESTABLISH DEVELOPMENT AND DESIGN STANDARDS FOR SOLAR ENERGY SYSTEMS; ESTABLISH NEW DEFINED TERMS IN THE ZONING ORDINANCE; ELABORATE REGULATIONS PERTAINING TO THE PRESERVATION OF NATURAL RESOURCES IN THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS; AND REPEALING INCONSISTENCIES.

Whereas, Solar Energy System technology has evolved since the Township established its solar zoning regulations; and

Whereas, this Board deems it appropriate to update those regulations together with others that may be applicable both to solar energy system projects and other projects in the Township in recognition of those technological advancements.

Now, therefore, it is hereby ORDAINED that:

1. Amendment to § 480-90.B(3) of the Code of Bethel Township to permit ground mounted Solar Energy Systems as a conditional accessory use in the T Tank Farm District.

Section 480-90.B(3) is hereby amended to read as follows:

Ground mounted solar energy systems in accordance with the development and design standards set forth in § 480-149.1 of this chapter, either as a primary use or as an accessory use to a use permitted by § 480-90.A.

2. Conditional Use Standards. The Code of Bethel Township is hereby amended to add the following to Chapter 480, Article XIX:

A. In evaluating an application to the Board of Supervisors for a conditional use, the Board shall require the applicant to provide reports, maps, plans and other papers to ensure that the proposal:

(1) Will be consistent with the community development objectives articulated in this chapter.

(2) Will be consistent with the statement of purpose articulated for the district in which the use is proposed.

(3) Will be consistent with the Bethel Township Comprehensive Plan, in particular, the plans for land use, community facilities and utilities.

(4) Will conform to all requirements of Chapter 395, Subdivision and Land Development, and all other regulations and ordinances.

(5) Will not adversely affect the health, safety, and general welfare of the surrounding area and the Township.

(6) Will promote the harmonious and orderly development of the zoning district involved.

(7) Will be compatible with the character and type of development existing in the area which surrounds the site in terms of the size, scale, height and bulk of the proposed uses and the size, shape and placement of buildings and other structures.

(8) Will not detract from or cause harm to neighboring properties by creating a negative impact on the aesthetic character of the community.

(9) Will be compatible with the uses permitted in the surrounding area in terms of the density and/or intensity of land use.

(10) Will reflect effective site planning and design in terms of energy efficiency, environmental protection, and aesthetic composition.

(11) Will be reflective of sound engineering and land development design and construction principles, practices and techniques.

(12) Will be consistent with the logical, efficient and cost-effective extension of public services and utilities and will not adversely affect the public services and utilities of surrounding properties of the Township as a whole in terms of public water, sewers, police and fire protection, and schools.

(13) Will include proposals for the effective disposal of solid waste.

(14) Will provide safe and efficient access to roads and will not create traffic congestion, hazardous traffic conditions, or excessive traffic volumes.

(15) Will be developed so as to limit the number of access points along a major public street, and to develop frontage of buildings on access roads which are parallel or perpendicular to a major public street.

(16) Will provide any improvements needed to guarantee compatibility with adjoining roads.

(17) Will provide continuity of existing circulation systems, including roads, sidewalks, trails and other walkways.

(18) Will provide adequate off-street parking and loading which will be minimally visible from adjoining public streets.

(19) Will utilize effective stormwater management techniques and soil erosion and sedimentation control techniques which are in character with and complementary to the proposed site grading and landscaping.

(20) Will provide for adequate environmental controls and performance standards to minimize noise, vibration, glare, heat, odor, smoke, dust, fumes, vapors, gases, air emissions, water emissions, and outdoor storage.

(21) Will preserve woodlands and other trees existing at the site to the maximum extent possible.

(22) Will not be disruptive to existing topography, surface water resources and groundwater resources.

(23) Will include proposals for effective mitigation of potential adverse environmental impacts through a satisfactory environmental impact assessment report.

(24) Will provide landscaping to buffer and screen the use from surrounding properties, to complement buildings and other structures on the site, and to enhance the overall character of the development.

(25) Will include proposed landscaping, in addition to that required as stated above, in areas such as the entrance, along property boundaries, in areas which are highly visible, such as along roads, walks or trails, and in other places where the use of trees, shrubs and ground cover would be functional and appropriate.

(26) Will provide fencing, walls, berms, terraces, walkways, and other site improvement features to complement the proposed landscaping.

(27) Will provide effective, subdued lighting using light posts and fixtures complementary to the proposed architecture and the character of the surrounding neighborhood.

(28) Will provide adequate signage which shall be crafted to be attractive and of the highest graphic quality in keeping with the character of surrounding properties.

B. In addition to the factors set forth in subsection A above, with regard to an application for a ground mounted Solar Energy System pursuant to § 480-90.B(3), the Board shall require the applicant to provide reports, maps, plans and other papers to ensure that the proposal:

(1) will account for the removal of the system upon abandonment of its use;

(2) will minimize the removal of existing trees, and provide for tree replacement or a fee in lieu thereof to be placed in a dedicated account for the placement of trees elsewhere in the Township consistent with the standards set forth in § 395-45 of the Code of Bethel Township;

(3) will comply with Chapter 384 of the Code pertaining to Stormwater Management and otherwise minimize Solar Energy System's impact on stormwater runoff, both directly onto neighboring properties and downstream;

(4) will minimize the risk of fire and other hazards and be consistent with prevailing safety standards and any recommendations of the Bethel Township Fire Marshal;

(5) will implement landscape buffering to minimize glare and safety impact on adjacent roadways and neighboring properties. Buffer planting strips shall be 50 feet wide adjacent to residential properties and 25 feet wide adjacent to non-residential properties. In addition to ground covers and shrubs, the buffer planting strip shall be comprised of evergreen trees which are a minimum of eight feet in height at the time of planting and shall be spaced in alternating rows on ten-foot centers. The combined evergreen trees and shrubs shall form a continuous visual buffer.

(6) shall not be installed on slopes greater than 10%

C. The Board of Supervisors may attach such conditions and safeguards prior to, during and after construction, in addition to those already required by this chapter, as it may deem necessary to implement the purposes of the Municipalities Planning Code and this chapter, and to protect the public welfare, which conditions and safeguards may relate to, but are not

limited to, the design of buildings, roads and parking areas, landscaping and its maintenance as a sight or sound screen, lighting, noise, safety, and the prevention of noxious, offensive or hazardous conditions.

D. General procedures

(1) In the case of an application for Conditional Use, once the Township deems the application administratively complete, the Planning Commission shall, pursuant to the Municipalities Planning Code, perform a review and provide counsel to the Board of Supervisors concerning the grant of approval or disapproval of the proposed use. The Planning Commission shall discuss the application during at least one of its regularly scheduled public meetings during the review period.

(2) The Board of Supervisors shall, in the case of an application for Conditional Use, schedule a hearing for public review and comment. Such hearing shall commence within 60 days of the date that the Township deems the application administratively complete. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before it. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate considering the facts found.

(3) The Planning Commission and Board of Supervisors shall be responsible for providing notification to the Applicant, no less than 15 days prior to the occurrence of any hearing at which testimony will be heard and/or action taken upon approval or disapproval, in order that he/she may present his/her case at such hearing. The Township shall notify, no less than 15 days prior to such hearing, all abutting property Owners and Owners of property within 500 feet of the property in question.

(4) Proof of proper notification is required as a precondition before any formal action is taken on the application.

(5) Notification of the action taken by the Board of Supervisors shall be made in writing to the Applicant within 24 hours of the decision. In the event of disapproval, it shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the Applicant may file a new application for Conditional Use or Subdivision and/or Land Development for another use of the subject property or file an appeal of the decision to a court of competent jurisdiction.

(6) In the event of approval, should the Applicant fail to obtain the necessary Township approvals and permits within 12 months of notification, or, having obtained the necessary approvals and permits, fails to commence work thereunder within six (6)

additional months, it will be conclusively presumed that the Applicant has waived, withdrawn, or abandoned his or her application, and all provisions, Conditional Use(s) and permits granted to him/her will be deemed automatically rescinded by the Board of Supervisors.

(7) The grant of approval by the Board of Supervisors for a conditional use shall in no way release the applicant from his/her obligation to comply with the applicable provisions of this chapter; Chapter 395, Subdivision and Land Development; and any other applicable Township, state and federal regulations.

3. Amendment to Solar Energy System regulations set forth in § 480-149.1. Section 480-149.1 is hereby amended to read as follows:

It is the purpose of this regulation to promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A roof mounted solar energy system shall be permitted in any zoning district as an accessory to a principal use herein subject to specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.

A. The installation and construction of a solar energy system shall be subject to the following development and design standards:

(1) Roof-mounted solar energy systems are permitted on conforming lots in all commercial and light industrial zoning districts as an accessory to a principal use.

(2) Roof-mounted solar energy systems are permitted on the principal structure on conforming single family detached residential uses in the R-1 and R-3 zoning districts as an accessory to a principal use; provided, however, that solar energy systems shall not be permitted on "historic structures" as that term is defined in § 239-2 of the Code of Bethel Township.

(3) A solar energy system shall be designed to provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall be neither designed nor used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the occasional sale of excess power generated from time to time to the local utility company.

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

(5) A roof-mounted system shall only be mounted on a principal building. A roof-mounted system may not exceed the maximum principal building height specified for the building type in the underlying zoning district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.

(a) In all cases, solar energy systems shall be set back from roof edges and from the roof ridge line a minimum of three feet to provide safe access for firefighters and other emergency responders.

(b) Special regulations regarding flat roofs:

(i) Solar panels shall not project more than two feet (2') above the roof plane at its highest point on the back edge of any panel.

(ii) Any framework and/or hardware used to affix solar panels that is visible from the edge of the structure must be the same color as the roof underneath so as to minimize the visual impact of the solar energy system.

(7) All solar energy systems shall have switchbox containing a rapid shutoff device of a design and in a location to be approved by the Bethel Township Fire Marshal.

B. Ground-mounted solar energy systems and/or solar farms shall be permitted as a primary use in the Tank Farm District, subject to the following development and design standards.

(1) A ground-mounted system shall not exceed the maximum height of 12 feet.

(2) The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.

(3) A ground-mounted system or systems attached to an accessory building shall not be located within:

(a) 250 feet of any roadway or abutting property line either containing or zoned for a residential use; or

(b) 100 feet of any abutting property line.

(4) The minimum solar energy system setback distance from the property lines shall be 100 feet.

(5) If a ground-mounted solar energy system is removed:

(a) all wiring and structures supporting or incident to the system shall be removed simultaneously; and

(b) any earth disturbance as a result of the removal of the ground-mounted solar energy system shall simultaneously be graded and reseeded.

(6) If a ground-mounted solar energy system has not been in operation for a period of six months or is defective or is deemed to be unsafe by the Township Code Official, the solar energy system shall be required to be repaired by the owner to meet federal, state and local safety standards or to be removed by the property owner within the time period indicated by the Township Code Official. If the owner fails to remove or repair the defective, abandoned or unsafe solar energy system, the Township may pursue legal action to have the system removed at the owner's expense.

(7) Ground-mounted solar energy systems must provide access satisfactory to the Bethel Township Fire Marshal for emergency vehicles and equipment.

C. All mechanical equipment associated with and necessary for the operation of any solar energy system and/or solar farm shall comply with the following:

(1) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees or other non-invasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Zoning Ordinance may be used. Exterior access doors to all electrical equipment shall be locked or fenced to prevent entry by unauthorized persons.

(2) Mechanical equipment shall not be located within 100 feet of any abutting property line.

(3) Mechanical equipment shall comply with the setbacks specified for primary structures in the underlying zoning district.

D. Solar panels and shingles shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.

E. All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located underground.

F. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, flags, banners or similar materials. The manufacturer and equipment information, warning or indication of ownership shall be allowed on any equipment of the solar energy system, provided such information, warning or indication of ownership complies with the sign regulations under this chapter. A clearly visible warning sign

concerning voltage must be placed at the base of each pad-mounted transformer and/or substation.

G. A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.

H. The design of a solar energy system shall comply with all applicable Bethel Township ordinances and Codes so as to ensure the structural integrity of such a solar energy system.

4. Additions to Definitions set forth in §395-7. The following definitions are added to § 395-7 of the Bethel Township Code:

BUILDING

Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

DEVELOPER

Any landowner, equitable owner, authorized agent of such landowner or tenant with permission of such landowner, who makes or causes to be made a subdivision of land or a land development or applies to the Township to do so.

DIAMETER AT BREAST HEIGHTS (DBH)

The diameter of a tree trunk measured 4.5 feet above the natural grade at the base of trunk of a tree.

LAND DEVELOPMENT

Any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(a) A group of two or more residential Buildings, whether proposed initially or cumulatively, or a single nonresidential Structure on a lot or lots, regardless of the number of occupants or tenure;

(b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A Subdivision of land.

(3) Development in accordance with 53 P.S. § 10503(1.1).

LANDOWNER

The record holder of legal title to land, the rightful holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee, if he is authorized expressly under the lease to exercise the rights of the owner, or other person having a proprietary interest of the land which is the subject of an application for subdivision and/or land development.

NOTABLE TREE

Any tree having a diameter of 24 inches DBH or greater, which are located outside of a tree mass.

STRUCTURE

Any man-made object or improvement having an ascertainable stationary location on land or in the water, whether or not affixed to the land.

TREE MASS

Naturally occurring vegetation characterized by trees whose crowns meet to form a 70% to 100% closed canopy. Tree masses shall be at least .5 acre in area and contain trees at least 20 feet tall or 12 inches DBH, although not all trees need to be that size. Tree masses smaller than .5 acre on a tract or lot shall also be considered tree masses if they are part of a larger continuous tree mass that extends onto other tracts or lots.

WATERCOURSE

A stream with year-round or substantially year-round flow, such as a creek, run or other body of running water.

WETLAND

An area with hydric soils that are inundated or saturated by surface and/or ground water, which support hydrophytic vegetation, such as swamps, bogs, marshes and the like, such areas being regulated by the United States Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection.

5. Amendment to Preservation of Resources regulations set forth in § 395-45.

Section 395-45 is hereby amended to read as follows:

A. Consideration shall be shown for all natural features, such as notable trees, watercourses, wetlands, rock outcroppings and similar community assets which, if preserved, will add attractiveness and value to the remainder of the subdivision or land development. No property may be altered in a way that will reduce the aggregate acreage required to be protected under this section. If any area is subject to restriction with respect to two or more resources under this section, the more restrictive regulation shall control.

B. Tree masses and notable trees, shall be preserved to the maximum extent possible, and in no event shall more than 20% of a tree mass be graded, cleared or built upon, except for approved agricultural, historical, and/or recreational uses. All structures should be located in such a manner as to minimize damage to vegetation. Existing open areas should be developed instead of wooded areas. Areas in which trees are retained should remain undisturbed out to the canopy drip line and at the original grade level to the maximum extent possible.

C. No more than 20% of the Notable Trees on any property shall be removed, and Notable Trees shall not be removed unless they are located within the proposed cartway or sidewalk portion of a street right-of-way, within 15 feet of the foundation area of a new building, within a utility easement, within a proposed parking area or within an area where regrading necessary to achieve Land Development may endanger the trees. The Board of Supervisors may require the Landowner or Developer to plant one tree of not less than three inches in caliper for each tree of 12 inches DBH or more to be removed, and two trees of not less than three inches in caliper for each tree of 24 inches DBH or more to be removed. If a property cannot accommodate the requisite number of replacement trees, the Board of Supervisors may consider a fee-in-lieu of tree replacement.

D. Where a proposed Subdivision or Land Development necessitates the clearing of notable trees or portions of tree masses within the limits permitted by §395-45.B and C, Landowners or Developers shall be guided by the following criteria in selecting trees for clearing:

- (1) The existence of disease, rot, dieback or other damage to the tree;
- (2) Susceptibility of the tree to insect and disease attack;
- (3) Species longevity;
- (4) Wind-throw potential and characteristic of the soil to hold trees; and
- (5) Protection of Buildings (e.g., dead and large limbs hanging over a building should be removed).

E. Landowners or Developers shall exercise care to protect trees from damage during construction. Tree removal shall be limited to the actual construction site necessary to build and move construction equipment.

F. Subdivisions shall be laid out as to avoid the necessity for excessive cut or fill.

G. Topsoil shall not be stripped, covered or removed from the subdivision site.

5. Repealer. All ordinances, resolutions or parts of ordinances or resolutions directly conflicting with any provision of this Ordinance are hereby repealed to the extent of such inconsistencies only.

ENACTED and ORDAINED this 11 day of July 2023.

Bethel Township Board of Supervisors



Michael J. Davey
Chairman

Attest:



William Addison
Township Manager