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MARION TOWNSHIP

ORDINANCE NO. 2022- 01
NORTH HEIDELBERG TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022- 187
HEIDELBERG TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022- 1
MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022- 1
BOROUGH OF ROBESONIA
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022- 2
BOROUGH OF WOMELSDORF
BERKS COUNTY, PENNSYLVANIA

AMENDMENT TO THE JOINT ZONING ORDINANCE OF NORTH HEIDELBERG TOWNSHIP, HEIDELBERG TOWNSHIP, MARION TOWNSHIP, THE BOROUGH OF ROBESONIA, AND THE BOROUGH OF WOMELSDORF, BERKS COUNTY, PENNSYLVANIA, TO PROVIDE FOR SOLAR FARMS AS A SPECIAL EXCEPTION USE IN THE HIGHWAY-COMMERCIAL, LIGHT INDUSTRIAL AND GENERAL INDUSTRIAL ZONING DISTRICTS AND REGULATIONS THEREFOR

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 governing bodies of North Heidelberg Township, Heidelberg Township, Robesonia Borough, and Womelsdorf Borough enacted the Joint Zoning Ordinance effective January 10, 2004 (“Joint Zoning Ordinance”); and

WHEREAS, in January 2021 Marion Township became part of the Joint Zoning Ordinance; and

WHEREAS, the Joint Zoning Ordinance has been amended from time to time; and

WHEREAS, the governing bodies of Marion Township, Heidelberg Township, Robesonia Borough, and Womelsdorf Borough and North Heidelberg Township desire to amend the Joint Zoning Ordinance to provide for and regulate Solar Farms as a special exception use in the HC- Highway Commercial, LI- Light Industrial and GI- General Industrial Zoning Districts.

NOW, THEREFORE BE IT ORDAINED by the Board of Supervisors of North Heidelberg Township, Marion Township, and Heidelberg Township, Council for Robesonia Borough and Womelsdorf Borough, Berks County, Pennsylvania, pursuant to the authority conferred upon them by the Municipalities Planning Code, that the following be and is hereby adopted:

SECTION 1. The Joint Zoning Ordinance, Article 2 entitled “Definitions”, Section 202 entitled “Terms Defined” is hereby amended to add the following definition in alphabetical order:

Skyspace: The open space between a solar collector and the sun that must be free of obstructions that may shade or impede the collector to an extent that would reduce its cost-effective operation.

Solar Array: Any number of solar energy collectors connected together to provide a single electrical output.

Solar Energy: Radiant energy (direct, diffused and reflected) received from the sun.

Solar Energy Collector: A freestanding or fixed device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

Solar Farm: An installation of a solar array, and all related structures and equipment, typically designed as the primary land use of a parcel and including multiple solar energy collectors on mounting systems, from which the energy generated is sold for use on an energy grid system rather than being consumed on site.

SECTION 2. The Joint Zoning Ordinance, Article 3 entitled “Districts”, Section 306

entitled “Table of Permitted Uses by District”, Section 306.B.2 entitled “Primarily Non-Residential Districts”, Letter h. entitled “Miscellaneous Uses” is amended to provide for Solar Farms by Special Exception in the HC – Highway Commercial, LI- Light Industrial and GI - General Industrial Districts per Section 402YY.

SECTION 3. The Joint Zoning Ordinance, Article 4 entitled “Additional Requirements For Specific Uses”, Section 402 entitled “Additional Requirements For Specific Principal Uses” is amended to add a letter YY to be entitled “Solar Farms” which shall read in its entirety as follows:

YY. Solar Farms

1. General Requirements

Solar farms are subject to the following conditions:

- a.) The minimum net lot area required to install a solar farm shall be five (5) acres.
- b.) Solar farms shall be enclosed by perimeter fencing at a height of six (6) feet to restrict unauthorized access. Fencing shall be permitted within the front, rear and side yards of a lot and shall be set back a minimum of fifteen (15) feet from all property lines or five (5) feet from any street right of way line.
- c.) Any on-site electric lines shall, to the maximum extent practicable, be placed underground.
- d.) The solar farm shall be screened from the property line view of (i) any residential structures on adjacent lots existing at the time the solar farm is established and located within three hundred (300) feet of the nearest solar array on the solar farm and (ii) any pedestrian or vehicular traffic on any street directly adjacent to the solar farm. The screening requirement can be adjusted by the municipality’s Planning Commission where topographic conditions of the property where the solar farm is proposed make total compliance unreasonably difficult to achieve.
- e.) Solar farms shall adhere to all yard dimension, impervious coverage, and building coverage and height requirements of the district in which they are located. Regardless of the zoning district where the solar

farm is located, for purposes of applying the impervious coverage requirements of this Joint Zoning Ordinance, solar photovoltaic (PV) panels installed under this Section shall be considered pervious cover, provided the following guidelines are followed:

- The following components of a solar farm shall be considered impervious coverage and shall be included as part of the impervious coverage limitations for the underlying zoning district: (i) foundation systems for solar arrays, typically consisting of driven piles or monopole's or helical screws with or without small concrete collars; (ii) any impervious foundations installed for accessory mechanical equipment of the solar farm, including any foundation structure to hold batteries or storage cells; and (iii) gravel or paved access road serving the solar farm.
- Earth disturbance and grading activities must be minimized and natural vegetal cover must be preserved and/or restored.
- Vegetative cover must have 90% or better uniform coverage. A meadow condition is preferable, particularly for slopes between 5 and 10%.
- Individual PV panels within an array must be arranged in a fashion that allows the passage of runoff between each module. If the width of the module exceeds 3 feet (i.e. there is inadequate spacing between modules), then BMPs such as infiltration trenches (min. 12" wide by 12" deep) or infiltration berms must be installed downgradient between each row. The panels must be arranged to allow the growth of vegetation beneath and between arrays.
- Ground-mounted solar PV panels must be supported with structures/foundations occupying a maximum of 5% of the total project area.
- Solar PV panels must be situated on mild slopes (10% max). If larger than 10% slopes are proposed, then BMPs such as infiltration trenches (min. 12" wide by 12" deep) or infiltration berms shall be installed downgradient between each row.
- The lowest vertical clearance of the solar PV array must be at an elevation of 10 feet or less from the ground, but is also at an adequate height to promote vegetative growth below the array.
- Where pre-existing stormwater management deficiencies exist in the drainage basin of which the property on which the Solar Farm is proposed is a part, whether such deficiency occurs on the property or on adjacent or nearby properties, the municipal Engineer may reasonably require greater stormwater management

on the property where the Solar Farm is proposed than would otherwise be required. For purposes of this bullet paragraph, pre-existing stormwater management deficiencies means periodic flooding, ponding of water, erosion, and other similar indications of excessive stormwater which interferes with the use of property, including growing of crops on tilled fields. For purposes of applying this bullet paragraph, the municipal Engineer shall take into consideration the following guidelines: (1) establish the equivalent of a "Meadow" runoff cover condition across the site; (2) infiltrate a minimum of one-half inch ($\frac{1}{2}$ "") of rainfall over the entire site without consideration of any ground cover change; and 3) reduce the pass through flow rate discharged from the site to eighty percent (80%) of the flow rate onto the site by either infiltration or detention.

f.) All individual solar energy collectors, storage cells and connecting equipment in a solar array shall be subject to the setback requirements for a principal structure in that district and shall have a maximum height of fifteen (15) feet, except that any overhead power lines necessary for connection to the local electrical grid may be up to a height of fifty (50) feet. Any buildings on the property shall be treated as accessory structures.

g.) Solar farms may be proposed as the principal use of a property, or in addition to an existing use already on a property, but the requirements herein shall apply in full to the portion of the property dedicated to use as a solar farm. Existing agricultural uses and farmsteads, including a single-family dwelling and agricultural structures, whether conforming or nonconforming, may continue to exist on a solar farm without being considered abandoned or discontinued so that the land may revert back to an agricultural use or farmstead after decommissioning of the solar farm. Any provisions limiting the erection of more than one principal structure or building on a lot shall not apply to a solar farm with a pre-existing farmstead. Agrivoltaics such as grazing of animals, to include but not be limited to sheep and other livestock, and other solar-compatible agricultural or ecological practices to make beneficial use of the land under and around solar arrays shall be allowed as customarily incidental to a solar farm principal use, provided the use complies with Joint Zoning Ordinance as applicable.

h.) It shall be the responsibility of the property owner or facility owner or operator to secure any easements or restrictive covenants necessary to protect the skyspace affecting the solar farm. Such an agreement shall be negotiated between owners of affected properties, but is not a requirement for any municipal permits or approvals for the solar farm.

- i.) Solar farms and all equipment and facilities thereon shall be maintained in a safe manner. Broken glass or other potentially hazardous conditions shall be promptly repaired.
- j.) Warning signs shall be placed at the base of any pad-mounted transformers or electrical conducting apparatus on the site.

2. Plan Requirements

A land development plan shall be required to be submitted and reviewed by the municipality in which the Solar Farm is located in accordance with the municipality's Subdivision and Land Development Ordinance. In addition to the requirements of the Subdivision and Land Development Ordinance, the land development application shall include the following:

- a.) A narrative description of the project.
- b.) A descriptive plot plan including setbacks, property lines, road right-of-ways, dimensions and structural details for all solar arrays, and locations of buildings, access roads, solar arrays, and all electrical lines and off-site connection points.
- c.) An operations agreement which shall set forth operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures, and general safety documentation.
- d.) Evidence of approval by the electric company or other entity receiving the energy collected from the solar farm that it will accept connection from the solar farm and that it approves of the design plans for the project.
- e.) An affidavit or evidence of agreement between lot owner and the facility owner or operator, if not the same person or entity, confirming that the facility owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar farm.
- f.) Evidence of any required permits or licenses from state or federal agencies.
- g.) A decommissioning plan including provisions for the removal of all structures and foundations and the restoration of soil and vegetation. Where the prior use of the property on which the Solar Farm is proposed was agricultural, the decommissioning plan shall provide that the land will be restored to a condition where productive agricultural use can be resumed at a level of production similar to nearby tilled farmland with the

same agricultural soil classification, unless at the time of decommissioning it is known that new use of the land will be for commercial or industrial use.

h.) Any other relevant studies, report, certificates and approvals as may be reasonably requested by governing body of the municipality based on the unique character of the development.

3. Discontinued Use/Decommissioning

The facility owner or operator shall, at its expense, complete decommissioning of the solar farm within six (6) months after the end of the useful life of the facility. The solar farm will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. Decommissioning shall include removal in their entirety of solar arrays, support equipment, buildings, electrical components and lines, roads, foundations, and any other associated facilities. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing and the governing body approves that the access roads or other land surface areas not be restored.

An estimate for the total cost of decommissioning (Decommissioning Costs) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (Net Decommissioning Costs) shall be submitted to the municipality for review and approval after the first year of operation and every fifth year thereafter. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than twenty-five percent (25%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by the municipality. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the municipality. If the facility owner or operator fails to complete decommissioning within the required period, then the landowner shall within six (6) months complete decommissioning.

If neither the facility owner or operator, nor the landowner complete decommissioning within the required periods, then the municipality may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Landowner agreement to the

municipality shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the municipality may take such action as necessary to implement the decommissioning plan. To the extent the municipality incurs costs to rightfully perform any act in furtherance of decommissioning, it shall submit documentation of such costs to the escrow agent, and the escrow agent shall release sufficient escrow funds to the municipality to cover such costs. The escrow agent shall release any remaining Decommissioning Funds to the facility owner or operator when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

SECTION 4. Joint Zoning Ordinance. All other provisions of the Joint Zoning Ordinance shall remain in full force and effect.

SECTION 5. Repealer. All ordinances or resolutions or parts of ordinances or resolutions which are inconsistent herewith are hereby repealed.

SECTION 6. Severability. If any article, section, subsection, part, provision, regulations, limitation, restriction, sentence, clause, phrase or word of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining article, section, subsection, part, provision, regulations, limitation, restriction, sentence, clause, phrase or word of this Ordinance. The Municipal governing bodies hereby declare that they would have enacted this Ordinance had such unconstitutional, illegal or invalid article, section, subsection, part, provision, regulations, limitation, restriction, sentence, clause, phrase or word thereof not been included herein.

SECTION 7. Effective Date. This ordinance shall become effective five days after enactment.

ENACTED AND ORDAINED this 17 day of February, 2022.

BOARD OF SUPERVISORS OF NORTH HEIDELBERG
TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

BY: Andy Wood
Chairman
[Signature]
Member
[Signature]
Member

ATTEST: [Signature]
Secretary

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2022-01 of North Heidelberg Township, Berks County, Pennsylvania, which was adopted by the Board of Supervisors of said municipality at a regular meeting held pursuant to notice as required by law on 2/17, 2022.

WITNESS my hand and seal this 17 day of February, 2022.

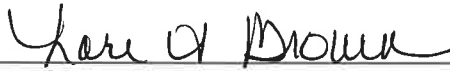
[Signature]
Secretary of North Heidelberg


ENACTED AND ORDAINED this 17 day of Feb, 2022.

BOARD OF SUPERVISORS OF HEIDELBERG
TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

BY: 
Chairman


Member

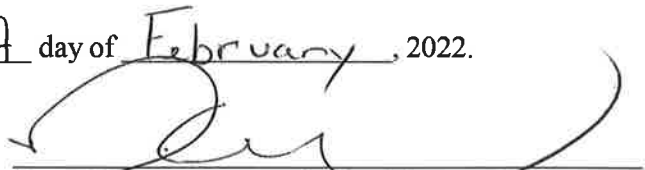

Member

ATTEST: 
Secretary

CERTIFICATE OF ENACTMENT


I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. ~~2022~~
187 of Heidelberg Township, Berks County, Pennsylvania, which was adopted by the Board of
Supervisors of said municipality at a regular meeting held pursuant to notice as required by law on
February 17, 2022.

WITNESS my hand and seal this 17 day of February, 2022.


Secretary of Heidelberg Township


ENACTED AND ORDAINED this 17 day of Feb, 2022.

BOARD OF SUPERVISORS OF MARION
TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

BY: 
Chairman


Member


Member

ATTEST: 
Secretary

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2022-
1 of Marion Township, Berks County, Pennsylvania, which was adopted by the Board of
Supervisors of said municipality at a regular meeting held pursuant to notice as required by law on
Feb 17, 2022.

WITNESS my hand and seal this 17 day of Feb, 2022.


Secretary of Marion Township

ENACTED AND ORDAINED this 17th day of Feb., 2022.

COUNCIL OF ROBESONIA BOROUGH,
BERKS COUNTY, PENNSYLVANIA

BY: Harry W. Marshall
President
Marc J. Spott
Vice-President
Michael M. Martin
[Signature]
Dean P. Johnson
[Signature]

ATTEST: Lisa K. Heilman
Secretary

Approved this 17th day of Feb., 2022. [Signature]
Mayor

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2022-
1 of the Borough of Robesonia, Berks County, Pennsylvania, which was adopted by the
Council of said municipality at a regular meeting held pursuant to notice as required by law on
Feb. 17th, 2022.

WITNESS my hand and seal this 17th day of Feb., 2022.

Lisa K. Heilman
Secretary of Borough of Robesonia

ENACTED AND ORDAINED this 17 day of Feb, 2022.

COUNCIL OF WOMELSDORF BOROUGH,
BERKS COUNTY, PENNSYLVANIA

BY: [Signature]
President

Vice President [Signature]

Wagner M. Miller

Constance P. Keller

ATTEST: [Signature]
Secretary

Approved this 17 day of Feb, 2022.

[Signature]
Mayor

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2022-2 of Borough of Womelsdorf, Berks County, Pennsylvania, which was adopted by the Council of said municipality at a regular meeting held pursuant to notice as required by law on Feb 17th, 2022.

WITNESS my hand and seal this 17 day of FEB, 2022.

[Signature]
Secretary of Borough of Womelsdorf