

ORDINANCE NO. _____

AN ORDINANCE OF SMITHFIELD TOWNSHIP, COUNTY OF MONROE,
COMMONWEALTH OF PENNSYLVANIA, AMENDING THE TOWNSHIP
CODE OF ORDINANCES OF SMITHFIELD TOWNSHIP, CHAPTER 27 –
ZONING TO SET FORTH REQUIREMENTS FOR SOLAR ENERGY
SYSTEMS AND WAREHOUSES AND REPEAL ALL PARTS OF
ORDINANCE INCONSISTENT HEREWITH.

WHEREAS, Smithfield Township (the “Township”) is a political subdivision of the County of Monroe, Commonwealth of Pennsylvania and is a Second Class Township with offices located at 1155 Red Fox Road, East Stroudsburg, Pennsylvania, 18301; and,

WHEREAS, the Township has adopted a Zoning Ordinance found in the Township Code of Ordinances, Chapter 27, Section 101 et seq. (hereinafter “Ordinance”); and,

WHEREAS, the Ordinance (Section 1002 – Other Words) contains definitions for terms and uses referenced in the Ordinance, establishes uses and/or classes of uses that are permitted and/or prohibited in certain zoning districts, provides additional specific use regulations and requirements, and contains area and dimensional regulations for such zoning districts; and,

WHEREAS, the Township is of the opinion that regulations and definitions related to solar energy and warehouses needed to be updated to preserve, maintain and promote land uses in conformance with the goals of the Smithfield Township Comprehensive Plan; and,

WHEREAS, the Township Board of Supervisors initiated the municipal curative zoning amendment procedure authorized pursuant to Section 609.2 of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10609.2, at a duly advertised public meeting of the Township Board of Supervisors (“Board”) held on September 28, 2022; and,

WHEREAS, the Township Board of Supervisors declared a portion of the Ordinance invalid because of its failure to:

(1) Provide any definitions and/or regulations for solar energy facilities and related equipment within the Township including inter alia accessory uses, solar fields, solar farms and solar energy businesses. There is no definition and/use of solar energy in the existing Zoning Ordinance; and,

(2) Provide adequate definitions and/or regulations regarding various types of warehouses in the Township inter alia storage, distribution, size, infrastructure and environmental effects inasmuch as the current Zoning Ordinance definition of a “warehouse” is simply “a building used primarily for the storage of equipment, goods and materials”; and,

(3) It is ambiguous and/or unclear as to whether solar energy facilities and/or warehouses should be included in either the Economic Development (ED) Zoning District and/or the M-1 (Industrial) Zoning District or both; and,

WHEREAS, the Township Board of Supervisors Board hereby adopts the following zoning amendments to overcome any invalidity as may be determined pursuant to the procedure set forth above.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Supervisors of Smithfield Township, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: Article 10, Section 1002 of the Smithfield Township, entitled "Other Words" shall be amended by adding the following definitions to those listed in Section 1002 thereof, to be inserted in alphabetical order:

ACCESSORY SOLAR ENERGY SYSTEM: An area of land or other area used for a solar energy 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. Ground mounted, freestanding Solar Energy Systems, or Roof Mounted Solar Energy Systems used primarily for on-site power use shall have no limit as to power output. 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 for use on-site by the generator.

AGRIVOLTAICS: the co-development of the same area of land for both solar photovoltaic power and Normal Farming Operations as defined by P.L. 454, No. 133 (1982) the Protection of Agricultural Operations from Nuisance Suits and Ordinances Act, or any successor laws.

FINANCIAL SECURITY: A form of security including a cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a Commonwealth or federal chartered lending institution in the amount of 110% of the total proposed decommissioning costs and in a form satisfactory to the Board of Supervisors and the Township Solicitor.

FULFILLMENT CENTER: A fulfillment center is a part of the supply chain and serves as the hub for all logistics processes needed to get a product from the seller to the customer. It handles the entire order fulfillment process, ranging from order picking and processing to packaging and shipping. A third-party provider uses the fulfillment center to receive, process, and fulfill customer orders for e-commerce retailers that are looking to streamline their operations. A fulfillment center exists to get online orders to customers in a timely fashion and relieve e-commerce companies of managing this process. Unlike warehouses that are more static or inactive, a fulfillment center has continuous movement and is a much more complex operation which provides a variety of order fulfillment services including receiving inventory, generating pick lists and picking products, kitting and assembling items, packing boxes, labeling shipments, shipping orders and managing

returns. For example, packages move on a conveyor belt while workers sort small and large orders and prepare them for shipping with Amazon Delivery or a third-party company like United Parcel Service.

LOGISTICS DISTRIBUTION CENTER and/or DEPOT: an area and/or structure where trucks load and unload goods, products, materials and other freight on a regular basis, or where tractor trailers are transferred from one tractor cab to another for the purpose of continuation to another destination, or where trucks or tractors or tractor trailers are stored, parked or waiting for dispatch or where the same may be broken down or aggregated into smaller or larger loads for transfer to other motor vehicles or modes of transportation or to other points of junctions.

SOLAR ARRAY: A system of a group of solar panels connected together.

SOLAR ARRAY CONNECTION: The low-voltage electric lines which connects Solar Related Equipment.

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 ENERGY FACILITY: An area of land used for a solar collection system principally 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 freestanding 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 ENERGY PROJECT: A grouping of two or more Solar Energy Facilities which are held by owner or leased to a common lessor and which are part of a single solar energy production development project.

SOLAR ENERGY PROJECT OWNER: The individual, group or entity responsible for the permitting, construction and operation of a Solar Energy Facility or Solar Energy Project. (May be abbreviated as SEF Developer, SEP Developer, or SEP Owner)

SOLAR FACILITY CONNECTION: The high-voltage electric conveyance lines which connect a Solar Energy Facility to the Solar Project Connection.

SOLAR PROJECT CONNECTION: The electric conveyance lines which connect a Solar Energy Facility to the high-voltage electric interconnection grid.

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 foundations or other structures used for or intended to be used for collection of solar energy.

WHOLESALE ESTABLISHMENT: an establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers or to industrial, commercial, institutional or professional or other business users or to other wholesalers.

SECTION 2: Article 10, Section 1002 of the Smithfield Township, entitled "Other Words" shall be amended by repealing the present definition of “Warehouse” and replacing the definition in its entirety with the following definition:

WAREHOUSE: A building or structure used for the indoor storage, transfer and distribution of products, supplies, goods, equipment and materials that have been manufactured, assembled or harvested or are being stored for manufacture, assembly or processing. It is primarily used for the loading and unloading and indoor storage of product and materials. This term shall not include a “Truck Terminal”, “Wholesale Establishment”, “Logistics Distribution Center and/or Depot” or a “Fulfillment Center”.

SECTION 3: Section 309 of the Smithfield Township Zoning Ordinance, entitled “Schedule of District Regulations” shall be amended as follows:

1. “Solar Energy Facilities – Uses and Structures” shall be allowed as a Conditional Use in the RE, R-2, ED, and M-1 districts.
2. “Accessory Solar Energy System” shall be allowed as a Principal Permitted Use in all zoning districts.
3. A warehouse (presently allowed in the Economic Development (ED) Zoning District) will still be allowed in the ED Zoning District (under the new definition) as a Principal Permitted Use but only up to a maximum gross floor area of fifty thousand (50,000) square feet.
4. Warehouse (whether over or under gross area of 50,000 square feet), Wholesale Establishments, Logistics Distribution and/or Depots, and Fulfillment Centers shall be allowed in the M-1 (Industrial) Zoning District as a Conditional Use.

SECTION 4: Part 5 of the Smithfield Township Zoning Ordinance, entitled “Supplementary Regulations” shall be amended by adding a new Section numbered 513, to be entitled “Solar Energy Systems” with the contents thereof to be as follows:

1. ACCESSORY SOLAR ENERGY SYSTEMS (ASES)

A. Criteria Applicable to all Accessory Solar Energy Systems:

- (1) ASES shall be permitted as a use by right in all zoning districts.
- (2) The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards as updated, 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), National Electrical Code (NEC), or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, and with all other applicable fire and life safety requirements.

Upon completion of installation, the ASES shall be maintained in good working order in accordance with standards of the codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by Smithfield Township in accordance with applicable ordinances.

- (3) All on-site utility, connection lines, and conduit and wiring shall be placed underground.
- (4) Glare
 - (a) All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non- reflective finish.
 - (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.
- (5) Decommissioning
 - (a) Each ASES 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.
 - (b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.
 - (c) The ASES owner shall, at the request of the Township provide information concerning the amount of energy generated by the ASES in the last 12 months.
- (6) Zoning/building permit applications shall document compliance with this Section and other applicable sections of the Smithfield Township Codes.

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) The total height of a building with an ASES shall not exceed by more than 3 feet above the maximum building height specified for principal or accessory buildings within the applicable zoning district.
- (3) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning district.
- (4) Solar panels shall not extend beyond any portion of the roof edge.
- (5) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code including that the roof or wall is capable of holding the load imposed on the structure.

C. Ground Mounted Accessory Solar Energy Systems:

(1) Setbacks

- (a) The minimum yard setbacks from property lines shall be equivalent to the accessory structure setback in the applicable zoning district.

(2) Height. Ground mounted ASES shall comply with the height limits of the underlying zoning district.

(3) Stormwater Management

- (a) Stormwater runoff from an ASES shall be managed in accordance with the requirements of the Smithfield Township Stormwater Management Ordinance.

- (b) Where Solar Panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a Disconnected Impervious Area ("DIA") and therefore, will have no increase from the pre-development to post-development runoff coefficient. The horizontal area of the panel can only be considered a DIA if the following conditions apply:

- i. Where natural vegetative cover is preserved and/or restored utilizing low impact construction techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Management Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and revegetating and re-foresting disturbed areas using native species.
- ii. Where the vegetative cover has a minimum uniform 70% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.

- a. For panels located on slopes of 0 to 15% a minimum 4" height of vegetative cover shall be maintained.
 - b. Panels located on slopes greater than 15% cannot be considered DIA.
 - c. The Township strongly discourages the use of chemical fertilizers and pesticides, though any use of such substance shall be in accordance with an approved Erosion and Sediment Control Plan.
 - d. Agrivoltaics, the co-development of the same area of land for both solar photovoltaic power and conventional agriculture, may be used provided that:
 1. Only shade tolerant crops may be used,
 2. Crops must be no-tilled in,
 3. A written erosion and sediment control plan must be developed for agricultural plowing or tilling activities or a portion of the overall farm conservation plan must identify BMPs used,
 4. Application of chemical fertilization or herbicides/pesticides is strongly discouraged by the Township and limited to the agronomic needs to the crop(s).
- iii. Where the Solar Panels within a Solar Array are arranged in a fashion that:
- a. Allows the passage of runoff between each Solar Panel, thereby minimizing the creation of concentrated runoff.
 - b. Allows for the growth of vegetation beneath the panel and between the Solar Arrays.
- (c) The horizontal area of any Solar Panel or Solar Array that cannot meet all the conditions to be considered DIA shall be treated as impervious area. These areas shall be included in the pre-development to post-development runoff analysis as impervious area to determine the need for Post Construction Stormwater Management ("PCSM") Best Management Practices.
- i. Use of gravel is permissible under a panel or in the receiving downhill flow path; however, the use of gravel would not allow the horizontal area of the Solar Panel or Solar Array to be considered as a DIA.
 - ii. All impervious areas associated with the ASES such as roadways and support buildings cannot be considered a DIA

and shall follow normal protocols when performing the PCSM stormwater analysis.

(4) Buffering.

- (a) Ground mounted ASES shall be buffered from any adjacent residential uses by a buffer yard of at least 30 feet. Such buffer yard shall be part of the commercial installation and shall be parallel and adjacent to the boundary.
- (b) Ground mounted ASES shall be buffered from any adjacent agricultural uses by a buffer yard of at least 15 feet. Such buffer yard shall be part of the commercial installation and shall be parallel and adjacent to the boundary.
- (c) Ground mounted ASES shall be buffered from any other adjacent uses by a buffer yard of at least 20 feet. Such buffer yard shall be part of the commercial installation and shall be parallel and adjacent to the boundary.
- (d) Ground mounted ASES larger than one (1) acre shall be subject to the buffer requirements of Solar Energy Facilities, as demonstrated in Section 2.B.6 – Buffering.

(5) Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

(6) 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, unless the Applicant can demonstrate, to the satisfaction of the Township, that the ASES will not impede stormwater management, or in any other manner alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

2. SOLAR ENERGY FACILITY (SEF)

A. Criteria Applicable to All SEFs:

(1) The SEF layout, design and installation shall conform to good industry practice. “Good industry practice” shall mean the practices, methods, standards, and acts (engaged in or approved by a significant portion of the solar power industry for similar facilities in similar geographic areas that are similar in size and complexity) as the same may change from time to time, that, at a particular time, in the exercise of reasonable professional judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable law, regulation, codes, good business practices, reliability, safety, environmental protection, economy, expedition, and shall comply with the PA Uniform Construction Code and with all other applicable fire and life safety requirements.

- (2) The application shall include a construction transportation plan that shows all roadways that will be utilized to access the site, which shall be forwarded to the Municipality for review.
- (3) DC voltage Solar Array Connections may be located above ground.
- (4) AC Solar Facility Connections should be located underground where feasible. AC Solar Facility Connections may be located above ground where the Applicant can demonstrate to the satisfaction of the Planning Commission that the overall environmental impacts would support above ground location.
- (5) Solar Project Connections may be located above ground.
- (6) No portion of the SEF 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 SEF provided they comply with the prevailing sign regulations.
- (7) Noise Management
 - (a) A Noise Management Plan that addresses noise produced during construction and during the facilities operation, to be approved by the Planning Commission, shall be included with the SALDO application.
 - (b) The Plan at a minimum shall separately address noise during construction and facility operations and include mitigation and assessment of the noise that will emulate at the perimeter fence and the contact information for the individual who is responsible for implementation and compliance both during construction and operations.
 - (c) The volume of sound inherently and recurrently generated shall be controlled so as not to cause a nuisance to adjacent uses.
 - (d) During operation of the SEF, audible sound shall not exceed a maximum of 60 dBA during daytime hours and 55 dBA during nighttime hours as measured at the exterior of any occupied building on a non-participating landowner's property.
- (8) Glare
 - (a) All SEF shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.
 - (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) The SEF 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 Township. The SEF owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

(10) Decommissioning

- (a) The SEF owner is required to notify the Township immediately upon cessation or abandonment of the operation. The SEF shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
- (b) The SEF owner shall then have eighteen (18) months in which to dismantle and remove the SEF including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations, solar facility connections and other associated facilities in accordance with agreements with landowners and good industry practice.
- (c) To the extent possible the materials shall be re-sold or salvaged. Materials that cannot be re-sold or salvaged shall be disposed of at facility authorized to dispose of such materials by federal or state law.
- (d) Any soil exposed during the removal shall be stabilized in accordance with applicable erosion and sediment control standards.
- (e) Any access drive paved aprons from public roads shall remain for future use unless directed otherwise by the landowner.
- (f) The SEF site area shall be restored to its pre-existing condition, suitable for its prior use, except the landowner may authorize, in writing, any buffer landscaping or access roads installed to accommodate the SEF to remain.
- (g) Any necessary permits, such as Erosion and Sedimentation and NPDES permits, shall be obtained prior to decommissioning activities.
- (h) At the time of issuance of SALDO approval for the construction of the SEF, the owner shall provide financial security in the form and amount acceptable to the Board of Supervisors and in favor of the Board of Supervisors, to secure its obligations under this Section.
 - i. The SEF Developer shall, at the time of the SALDO application, provide Smithfield Township with an estimate of the cost of performing the decommissioning activities required herein. The Solar Energy Project Owner shall provide financial security of 110% of the estimated cost of decommissioning. The estimate may include an estimated salvage and resale value, discounted by a factor of 10%. The decommissioning cost estimate formula shall be: Gross Cost of Decommissioning Activities minus 90% credit of Salvage and resale value equals the decommissioning cost estimate.
 - ii. On every 5th anniversary of the date of providing the decommissioning financial security, the SEF Owner shall provide an updated decommission cost estimate, utilizing the formula set forth above with adjustments for inflation and cost

and value changes. If the decommissioning security amount increases, the SEF Owner shall remit the increased financial security to Smithfield Township within 30 days of the approval of the updated decommissioning security estimate by Smithfield Township. If the decommissioning security amount decreases by greater than 10%, Smithfield Township shall release from security any amounts held in excess of 110% of the updated decommission cost estimate.

- iii. Decommissioning security estimates shall be subject to review and approval by the Board of Supervisors and the SEF Developer/Owner shall be responsible for administrative, legal, and engineering costs incurred by Smithfield Township for such review.
- iv. The decommissioning security may be in the form of cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institutions in the amount of 110% of the total proposed decommission cost estimate and in a form satisfactory to the Board of Supervisors and the Township Solicitor.
- v. Prior to final approval of any SALDO plans for a SEF, the SEF Developer shall enter into a Decommissioning Agreement with Smithfield Township outlining the responsibility of the parties under this Agreement as to the Decommissioning of the SEF.

(11) An Emergency Response Plan shall be included with the SALDO application.

(12) Permit Requirements

- (a) SEF shall comply with the Township's subdivision and land development requirements through submission of a land development plan.
- (b) The installation of SEF shall be in compliance with all applicable permit requirements, codes, and regulations, including highway occupancy, driveway permits and road bonding requirements.
- (c) The SEF owner and/or operator shall repair, maintain and replace the SEF and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the SEF in good repair and operating condition.

B. Ground Mounted Principal Solar Energy Systems:

- (1) SEF Development Area is equal to the total acres of land subject to lease by the SEF Developer. Where the area of land subject to the lease is greater than 75% of the parcel, the entire parcel will be considered to be SEF Development Area.

(2) Solar Array Locations:

- (a) Solar Arrays may be located only on 75% of the total Class I and II agricultural soils within the SEF Development Area, unless the area will be devoted to Agrivoltaic activities, in which case 100% of the Class I and II soils may be included in the SEF Development Area.
- (b) For each parcel on which an SEF or a component of an SEF is proposed, a map shall be provided by the applicant detailing the SEF Development Area, the Constrained Area, the Class I and II agricultural soils, and the Portion of the SEF Development that may be devoted to Solar Arrays.
- (c) Solar Arrays shall only be placed within that portion of any lot that lies within the Portion of the SEF Development that may be devoted to Solar Arrays.
- (d) Solar Arrays shall not be located in:
 - i. Floodways, as identified in the FEMA FIRM mapping.
 - ii. Regulated natural and man-made drainage corridors, extending twenty-five (25) feet from the centerline of any such drainage feature unless the Board of Supervisors at SALDO approval determines a lesser setback would create less impacts to the overall project.
 - iii. Wetlands: Development may occur on any wetland area of less than one (1) acre if the Board of Supervisors at SALDO approval determines the development of that area would create less impacts to the overall project. Any such development in a wetland must receive the required approval of the Pennsylvania Department of Environmental Protection and/or the United States Army Corps of Engineers.
 - iv. Wetlands Buffer extending twenty-five (25) feet from any wetland unless the Board of Supervisors at SALDO approval determines the development of that area would create less impacts to the overall project.
 - v. Slopes in excess of fifteen percent (15%) unless the Board of Supervisors at SALDO approval determines location in an area in excess of fifteen percent (15%) would create less impacts to the overall project.
 - vi. Wooded Areas primarily devoted to mature trees in excess of two (2) acres that would require removal of greater than 20% of mature trees, unless the Board of Supervisors at SALDO approval determines greater tree removal would create less impacts to the overall projects. For the purpose of this clause, brushes and shrubs are not considered trees.
 - vii. Road Rights-of-Way.

viii. Setback areas, as defined in the underlying zoning district.

(3) Setbacks

- (a) The fence as required by Paragraph 8 - Security below shall be considered a principal structure for purposes of setbacks. Minimum setbacks shall be in accordance with the zoning district requirements. Where an SEF is adjacent to a residential district, a minimum setback of fifty (50) feet from any residential district shall be required.
- (b) No lot line setback will be required where there is a grouping of two or more Solar Energy Facilities which are held by a common owner or leased to a common lessor and which are part of a single solar energy production development project, where each landowner has provided a written waiver of the lot line setback.
- (c) The application shall include with the project submission details of mitigation measures to be implemented to preserve wildlife corridors including between Solar Energy Facilities of a Solar Energy Project.
- (d) A minimum of a twenty-five (25) foot buffer shall be maintained along either side of any regulated stream or regulatory wetland.

(4) Height

- (a) All SEF components shall comply with the underlying district's maximum height requirement.
- (b) There is no maximum height restrictions for Structures that support Solar Facility Connections and Solar Project Connections.

(5) Stormwater Management

- (a) Stormwater runoff from an SEF shall be managed in accordance with the requirements of the Smithfield Township Stormwater Management Ordinance.
- (b) Where Solar Panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a Disconnected Impervious Area ("DIA"), and therefore will have no increase from the pre-development to post-development runoff coefficient. The horizontal area of the panel can only be considered a DIA if the following conditions apply:
 - i. Where natural vegetative cover is preserved and/or restored utilizing low impact construction techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Management Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and revegetating and re-foresting disturbed areas using native species.

- ii. Where the vegetative cover has a minimum uniform 70% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.
 - a. For panels located on slopes of 0 to 15% a minimum 4" height of vegetative cover shall be maintained.
 - b. Panels located on slopes greater than 15% cannot be considered DIA.
 - c. The Township strongly discourages the use of chemical fertilizers and pesticides, though any use of such substance shall be in accordance with an approved Erosion and Sediment Control Plan.
 - d. Agrivoltaics may be used provided that:
 - 1. Only shade tolerant crops may be used,
 - 2. Crops must be no-tilled in,
 - 3. A written erosion and sediment control plan must be developed for agricultural plowing or tilling activities or a portion of the overall farm conservation plan must identify BMPs used,
 - 4. Any grazing, cutting or mowing of the agricultural crop is limited to a height of no less than 4 inches,
 - 5. Application of chemical fertilization or herbicides/ pesticides is limited to the agronomic needs to the crop(s).
 - 6. If the property will be used for the grazing of livestock, a manure management plan must be developed.
- iii. Where the Solar Panels within a Solar Array are arranged in a fashion that:
 - a. Allows the passage of runoff between each Solar Panel, thereby minimizing the creation of concentrated runoff.
 - b. Allows for the growth of vegetation beneath the panel and between the Solar Arrays.
- (c) The horizontal area of any Solar Panel or Solar Array that cannot meet all the conditions to be considered DIA shall be treated as impervious area. These areas shall be included in the pre-development to post-development runoff analysis as impervious area to determine the need for Post Construction Stormwater Management ("PCSM") Best Management Practices.

- i. Use of gravel is permissible under a panel or in the receiving downhill flow path; however, the use of gravel would not allow the horizontal area of the Solar Panel or Solar Array to be considered as a DIA.
 - ii. All impervious areas associated with the ASES such as roadways and support buildings cannot be considered a DIA and shall follow normal protocols when performing the PCSM stormwater analysis.
- (6) Buffering. Ground mounted SEF shall be screened and buffered in accordance with the following standards.
 - (a) Vegetative buffering, to the extent practical, shall be installed around the entire perimeter of the SEF installation, except where the Commissioners determines that the retention of existing trees within the vegetative buffering area may constitute the required vegetative buffer or where the Board of Supervisors determines that the solar panels cannot be viewed from a public roadway or residential building.
 - (b) The vegetative buffering shall be installed along the exterior side of the fencing. All required vegetative buffering shall be located within fifty (50) feet of the required fencing.
 - (c) 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 SEF is proposed. The applicant shall assess the species mix and characteristics found in existing tree lines, hedge rows, and wooded areas surrounding the SEF and document that the vegetative buffering is designed to emulate these characteristics. Arborvitae may be used as vegetative buffering.
 - (d) No less than 20% of vegetative buffering plantings shall be pollinator friendly species.
 - (e) Vegetative buffering shall be selected to provide year-round buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility, as set forth herein within thirty-six months of the installation of the SEF.
 - (f) A combination of Natural topography and vegetation can serve as a buffer, provided that the SEP will not be visible from public roads, public parks or existing residences on surrounding properties. Earthen berms may not be created to serve as a buffer.
 - (g) Visibility of SEP shall be determined as visible in a photograph taken at a point with a digital camera with an APS-C Sensor and a 35 mm focal length lens. A SEF shall be considered to not be visible provided that no more than 5% of the SEF shall be visible in accordance with the measure of visibility set forth above.

- (h) The buffering requirements of this section shall supersede the provisions of the Smithfield Township Zoning Ordinance and Subdivision and Land Development Ordinance as they may pertain to SEFs.
- (7) Ground-mounted SEF shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system.
- (8) Security
 - (a) All ground-mounted SEFs shall be completely enclosed by a minimum eight (8) foot high fence and a self-locking gate as deemed appropriate by the Board of Supervisors at Land Development Plan approval.
 - (b) A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the SEF informing individuals of potential voltage hazards.
- (9) Access
 - (a) At a minimum, a fourteen (14) wide stabilized access road must be provided from a state or township roadway to the SEF site that is maintained in a dust free condition. The SEF developer shall obtain a permit from the appropriate jurisdiction for the construction of the access road.
 - (b) At a minimum, a twenty (20) foot wide cartway shall be provided on the inside of the perimeter fencing between the fence and Solar Array.
 - (c) Spacing between Solar Array rows shall allow access for maintenance vehicles and emergency vehicles.
 - (d) Access to the SEF shall comply with the municipal access requirements in the Subdivision and Land Development Ordinance.
- (10) The ground mounted SEF shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

C. Roof and Wall Mounted Principal Solar Energy Facility:

- (1) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code including that the roof or wall is capable of holding the load imposed on the structure.
- (2) The total height of a building with a roof and wall mounted system shall not exceed by more than 3 feet above the maximum building height specified for principal or accessory buildings within the applicable zoning district.
- (3) Roof and Wall Mounted Principal Solar Energy Facilities are permitted in any Zoning District where the building upon which they will be mounted is a permitted use.

SECTION 5. Additional Conditional Requirements. This Section shall be added as Chapter 27, Section 706 and shall be called, “Additional Conditional Use Requirements”, and the current Section 706 – Zoning Permit Fees shall be shifted to create Section 710. Section 706 shall read as follows:

In presenting an application for a Conditional Use approval, the Applicant shall (in addition to the other requirements of the Zoning Ordinance i.e. Chapter 27, Section 704 and 705) also establish:

1. The nature of the on-site activities and operations, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the Applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.
2. The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift, the number of shifts, the hours of operation, an overall site size.
3. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, radiation, wastewater, stormwater, solid waste-this list is merely illustrative and not exhaustive) shall have specific measures employed to mitigate or eliminate any such negative impacts. The Applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances.
4. The Applicant shall present credible evidence that the number of off-street parking spaces provided for tractor trailer trucks will be adequate to accommodate the expected demand generated by the proposed use and its related activities.
5. Traffic Study - prepared by a professional traffic engineer - shall be required as per the existing Zoning Ordinance, Chapter 27, Section 404.2.

SECTION 6. Additional Use Regulations. The following additional use regulations are added to Chapter 27, Zoning Ordinance, under Section 511.19, which shall be named “Warehouse uses (over 50,000 square feet), Wholesale Establishments, Logistics Distribution and/or Depots and Fulfillment Centers.” Current item 19 – Truck Terminals, and all other successive regulations are shifted down to accommodate this section:

1. No building or structure shall be in excess of One Hundred Fifty Thousand (150,000) Square Feet of gross floor area.
2. No building shall be in excess of Fifty (50’) feet in height. The maximum height of roof projections shall not be in excess of ten feet (10’). The height of a building or structure shall be measured from the finished floor grade to the roof membrane but excluding roof projection.

3. One (1) off-street loading and unloading space shall be provided for each door dock. No parking and/or loading/unloading shall be permitted on or along any public road.
4. Access drives must front upon and connect to public road improved to township standards and shall be sufficient in width to accommodate the use and the vehicles expected to travel upon same but in no event shall any access drive exceed twenty-four (24) feet in width. No activities including off-street parking shall be allowed within one hundred-fifty (150) feet of a property line abutting a residential zoning district. All truck idling in excess of fifteen (15) minutes shall be prohibited. Further, facilities with gated entrances shall provide for an on-site queuing area for the stacking of a minimum of three (3) tractor trailers.
5. Any entrance for trucks, loading/unloading area or truck parking area shall be a minimum of two hundred and fifty (250) feet from any residential zoning district boundary.
6. The use shall have its main access point(s) within two (2) miles of at least one arterial road or an on-ramp of an expressway.
7. The use shall include an appropriate system to contain and properly dispose of any fuel, grease, oils or similar pollutants or hazardous substances that may spill or leak where such substances are stored or where vehicles are fueled, repaired or maintained.
8. No outdoor storage of any kind is permitted. However, the storage of garbage that is routinely produced on site and awaiting regular collection is permitted; however, yard areas must still be kept clear of junk, trash or other types of debris. All activities shall occur in a completely enclosed building or structure (except for shipments and deliveries by vehicles) and all materials shall be stored within a completely enclosed building or structure.
9. Minimum distance between any two buildings (or groups of buildings) will not be less than the height of the building (including roof projections) plus twenty-five feet (25’).
10. An Emergency Access Road shall be constructed to go completely around the perimeter of each building to be constructed and to act an emergency fire lane. Such road shall be at least twenty feet (20’) wide and shall be constructed of materials that are able to withstand the load of large emergency response vehicles (such as fire trucks) and related equipment.
11. A mechanical scraper system shall be installed at each truck exit for the purpose of removing snow, slush and/or ice from the trailer and truck rooftops. During the winter months (December-March) or after any snow or ice event, all trucks must pass under this system.
12. The building or structure must be sprinkled.

SECTION 7. Severability. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Ordinance is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the Ordinance.

SECTION 8. Repealer, Continued Application, and Interpretation Clause: Except if inconsistent herewith, the existing Township Zoning Ordinance and/or Subdivision and Land Development Ordinance provisions also continue to apply to the uses herein referenced including impervious coverage, setbacks, utilities, landscaping, buffering, storm water, water and sanitary sewage, off-street parking, loading and/or unloading zones, lighting (and, this list is merely illustrative and not exhaustive). If one of the Township’s existing ordinance or regulations conflicts with these provisions herein, the more restrictive provision shall prevail.

SECTION 9. Effective Date. This Ordinance shall become effective five (5) days after the date of enactment as provided by law and shall remain in force until modified, amended, or rescinded by Smithfield Township, Monroe County, Pennsylvania

ADOPTED this _____ day of _____, 2023 at a public meeting held by the Board of Supervisors of the Township of Smithfield, Monroe County, Pennsylvania.

**SMITHFIELD TOWNSHIP
BOARD OF SUPERVISORS**

Jacob A. Pride, Chair

Robert Lovenheim, Vice Chair

Brian E. Barrett, Supervisor

Attest: _____
Lois J. Turr
Administrative Secretary