

ORDINANCE NO. 07 OF 2020

AN ORDINANCE OF THE TOWNSHIP OF LIBERTY, ADAMS COUNTY, PENNSYLVANIA, AMENDING AND SUPPLEMENTING THE LIBERTY TOWNSHIP ZONING ORDINANCE.

WHEREAS, the Board of Supervisors of Liberty Township deem it to be in the interest and welfare of the residents of the Township to amend the Zoning Ordinance of Liberty Township as set forth below.

NOW, THEREFORE, by the authority of and pursuant to the provisions of Article V of Act No. 247, as amended, of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, known as, and cited as the "Pennsylvania Municipalities Planning Code"; and any amendments and supplements thereto, and also by the authority of the Second Class Township Code "Act of May 1, 1933 (P.L. 103, No. 69) as amended, be it enacted and ordained by the Board of Supervisors of Liberty Township, Adams County, Pennsylvania, that the Zoning Ordinance of the Township is revised and amended as follows:

SECTION 1: TEXT AMENDMENT:

Section 112 shall be amended by adding the following definitions

Accessory Solar Photovoltaic System – A solar energy system, whose main purpose is to generate and supply electricity to the property on which the facility is located.

Cartway – The area of a road or other street, within which vehicles are permitted, including travel lanes but not including shoulders, curbs, gutters, sidewalks, or drainage swales.

DEP – The Pennsylvania Department of Environmental Protection.

Principal Solar Photovoltaic System – A Solar Photovoltaic System constructed as an electricity generating facility, and whose main purpose is to generate and supply electricity to properties and uses beyond the property on which the facility is located, and which consists of one (1) or more solar arrays and other accessory structures and buildings, including substations, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

Principal Use – The main or primary use of land or structures.

Solar Access – The degree to which direct sunlight is provided to a solar panel or solar array

Solar Array – A grouping of multiple solar panels.

Solar Easement – 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 purposes of ensuring adequate access to direct sunlight for Solar Photovoltaic Systems.

Solar Energy System – A device or design features, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water cooling.

Solar Panel – A structure containing one or more receptive cells or collector devices, the purpose of which is to use solar radiation to create usable electrical energy.

SECTION 2: TEXT AMENDMENT

Section 201.3.a shall be amended by revising the Use #5 row of the permitted uses table to read as follows.

5	Accessory uses, customarily incidental to conservation area permitted uses, and including Accessory Solar Photovoltaic Systems.	Section 301
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SECTION 3: TEXT AMENDMENT

Section 201.3.a shall be amended by revising the Use #12 row of the permitted uses table to read as follows.

12	Accessory uses customarily incidental to development area permitted uses, and including accessory apartments, (see Section 401), no-impact home-based businesses (see Section 435), and Accessory Solar Photovoltaic Systems.	Section 301
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SECTION 4: TEXT AMENDMENT

Section 202.3.a shall be amended by revising the Use #6 row of the permitted uses table to read as follows.

6	Accessory uses, customarily incidental to conservation area permitted uses, and including Accessory Solar Photovoltaic Systems.	Section 301
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SECTION 5: TEXT AMENDMENT

Section 202.3.a shall be amended by revising the Use #12 row of the permitted uses table to read as follows.

20	Accessory uses customarily incidental to development area permitted uses, and including accessory apartments, (see Section 401), no-impact home-based businesses (see Section 435), and Accessory Solar Photovoltaic Systems.	Section 301
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SECTION 6: TEXT AMENDMENT:

Section 202.3.a shall be amended by adding the following to the end of the permitted uses table.

	Conditional Uses for Entire Property	
33	Principal Solar Photovoltaic System	Section 457

SECTION 7: TEXT AMENDMENT:

The first sentence of Section 202.4 shall be amended to read as follows.

"All development within the AR District, except for uses that Section 202.3.a authorized to be established over an entire property, shall be in accordance with the following minimum open space and maximum density requirements."

SECTION 8: TEXT AMENDMENT

Section 202.5 shall be amended by adding the following as Section 202.5.d.

"d. Dimensional Standards for any use that Section 202.3.a authorizes to be established over an entire property shall be those established for the specific use."

SECTION 9: TEXT AMENDMENT

Section 204.2 shall be amended by revising Subsection j to read as follows.

"j. Accessory uses customarily incidental to permitted uses, and including accessory apartments (see Section 401), no-impact home-based businesses (see Section 435), and Accessory Solar Photovoltaic Systems (see Section 301.9)."

SECTION 10: TEXT AMENDMENT

Section 205.2 shall be amended by revising Subsection x to read as follows.

"x. Accessory uses customarily incidental to permitted uses, and including accessory apartments (see Section 401), no-impact home-based businesses (see Section 435), and Accessory Solar Photovoltaic Systems (see Section 301.9)."

SECTION 11: TEXT AMENDMENT

Section 206.2 shall be amended by revising Subsection p to read as follows.

"p. Accessory uses customarily incidental to permitted uses, and including Accessory Solar Photovoltaic Systems (see Section 301.9)."

SECTION 12: TEXT AMENDMENT

Section 301 shall be amended by adding the following as Section 301.9.

"9. Accessory Solar Photovoltaic Systems (AS-PVS) – The following regulations shall apply to AS-PVS.

a. Regulations Applicable to all AS-PVS.

1. Exemptions

(a) AS-PVS with an aggregate collection and/or focusing area of ten (10) square feet or less are exempt from this Ordinance.

(b) AS-PVS constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing AS-PVS, whether or not existing prior to the effective date of this Section that materially alters the AS-PVS, shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

2. Permit Requirements

(a) Land Use Permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the AS-PVS is constructed.

(b) The Land Use Permit shall be revoked if the AS-PVS, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the AS-PVS not to be in conformity with this Ordinance.

(c) The AS-PVS must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare.

3. Decommissioning

(a) Each AS-PVS and all solar-related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.

(b) The AS-PVS 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 AS-PVS owner shall, at the request of the Township, provide information concerning the amount of energy generated by the AS-PVS in the last twelve (12) months.

4. The layout, design, installation and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC), or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by Liberty Township, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

5. Upon completion of installation, the Accessory Solar Photovoltaic System shall be maintained in good working order in accordance with standards of the Liberty Township codes under which the Accessory Solar Photovoltaic System was constructed.
6. Accessory Solar Photovoltaic System installers must certify they are listed as a certified installer on the DEP's approved solar installer list, or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements.
 - (a) Certification by the North American Board of Certified Energy Practitioners (NABCEP).
 - (b) Completion of the Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited Photovoltaic (PV) training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.
 - (c) A registered home improvement contractor with the PA Attorney General's Office.
7. All on-site utilities, transmission lines, and plumbing shall be placed underground.
8. The owner of a grid-connected AS-PVS shall provide Liberty Township written confirmation that the public utility company to which the Accessory Solar Photovoltaic System will be connected has been informed of the owner's intent to install a grid-connected system, and that the public utility company has approved of such connection. Off-grid systems shall be exempt from this requirement.
9. No portion of the Accessory Solar Photovoltaic System 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 Accessory Solar Photovoltaic System provided they comply with the prevailing sign regulations.
10. Glare
 - (a) All Accessory Solar Photovoltaic Systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
 - (b) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
11. Solar Easements
 - (a) An owner of an AS-PVS may enter into solar easements with surrounding property owners. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the AS-PVS.

(b) Any such easements shall be appurtenant, shall run with the land benefited and burdened, and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easements 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.

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

(3) Terms and conditions, if any, under which the easement may be revised or terminated.

(4) Compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(c) If required, an Accessory Solar Photovoltaic System 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).

12. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for a Solar Photovoltaic System shall not and does not create in the property owner, its, his, her or their successors and assigns in title, or create in the property itself, the following.

(a) The right to remain free of shadows and/or obstructions to solar energy caused by the development of adjoining or other property or the growth of any trees or vegetation on such property.

(b) The right to prohibit the development on or growth of any trees or vegetation on such property.

b. Roof Mounted and Wall Mounted AS-PVS.

1. A roof mounted or wall mounted AS-PVS may be located on a principal or accessory building.

2. AS-PVS mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for principal, and accessory buildings within each of the underlying zoning districts.

3. Wall mounted AS-PVS shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

4. Solar panels shall not extend beyond any portion of the roof edge.
 5. Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the Solar Photovoltaic System can perform effectively.
 6. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township, and that the roof or wall is capable of holding the load imposed on the structure.
- c. Ground Mounted AS-PVS.
1. Setbacks: All setbacks shall meet required Liberty Township setbacks in that zoning district.
 2. Height: Freestanding ground mounted AS-PVS shall not exceed the maximum accessory structure height in the underlying zoning district.
 3. Impervious Coverage
 - (a) The area beneath the ground mounted AS-PVS is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.
 - (b) The applicant shall submit a Storm Water Management Plan that demonstrates compliance with the Liberty Township Stormwater Management Ordinance.
 4. Screening: Ground mounted AS-PVS shall be screened from adjoining residential uses or zones according to the standards found in Section 312.
 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 AS-PVS shall be locked to prevent unauthorized access or entry.
 6. Ground mounted AS-PVS shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system."

SECTION 13: TEXT AMENDMENT

Article IV shall be amended by added Section 457 to read as follows.

"Section 457: Principal Solar Photovoltaic System (PS-PVS)

457.1. Regulations Applicable to all PS-PVS.

- A. Exceptions: PS-PVS constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modifications to an existing PS-PVS, whether or not existing prior to the effective date of this Section that materially alters the PS-PVS, shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.
- B. Permit Requirements
1. PS-PVS shall comply with the Liberty Township Subdivision and Land Development, including the submission and approval of a Land Development Plan. The installation of PS-PVS shall be in compliance with all applicable permit requirements, codes and regulations.
 2. Land Use Permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the PS-PVS is constructed.
 3. The PS-PVS owner and/or operator shall repair, maintain and replace the PS-PVS and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PS-PVS in good repair and operating condition.
- C. No trees or other landscaping otherwise required by the Township ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PS-PVS.
- D. The PS-PVS 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 PS-PVS owner and/or operator shall respond to the public's inquiries and complaints.
- E. Decommissioning
1. The PS-PVS owner and/or operator is required to notify the Township immediately upon cessation or abandonment of the operation. The PS-PVS shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
 2. The PS-PVS owner shall then have twelve (12) months in which to dismantle and remove the PS-PVS 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. If the owner fails to dismantle and/or remove the PS-PVS within the established timeframes, the Township may complete the decommissioning at the owner's expense.
 3. At the time of issuance of the Land Use Permit for the construction of the PS-PVS, the owner shall provide financial security in a form and amount acceptable to the Township to secure the expense of dismantling and removing said PS-PVS and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.
- F. The layout, design, installation and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories

(UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by Liberty Township, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

G. Upon completion of installation, the Principal Solar Photovoltaic System shall be maintained in good working order in accordance with standards of the Liberty Township codes under which the Principal Solar Photovoltaic System was constructed.

H. Principal Solar Photovoltaic System installers must certify they are listed, as a certified installer on DEP's 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. Certification by the North American Board of Certified Energy Practitioners (NABCEP).
2. Completion of an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited Photovoltaic (PV) training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

I. All on-site utilities, transmission lines, and plumbing shall be placed underground.

J. The owner the PS-PVS shall provide Liberty Township written confirmation that the public utility company to which the Principal Solar Photovoltaic System will be connected has been informed of the owner's intent to install a grid-connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

K. No portion of the Principal Solar Photovoltaic System 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 Principal Solar Photovoltaic System provided they comply with the prevailing sign regulations.

L. Glare

1. All Principal Solar Photovoltaic Systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. 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.

M. Solar Easements

1. An owner of a PS-PVS may enter into solar easements with surrounding property owners. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements. Copies of all existing or proposed solar easements shall be submitted to the Township with the Land Use Permit application for the PS-PVS.

2. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easements shall include, but not be limited to:

- a. 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;
- b. Restrictions on the placement of vegetation, structures and other objects which may impair or obstruct the passage of sunlight through the easement;
- c. Terms and conditions, if any, under which the easement may be revised or terminated;
- d. 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.

3. If required, a Principal Solar Photovoltaic System 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).

N. Prior to the issuance of a Land Use Permit, applicants must acknowledge in writing that the issuance of said permit for a Principal Solar Photovoltaic System shall not and does not create in the property owner, its, his, her or their successors and assigns in title, or create in the property itself:

1. The right to remain free of shadows and/or obstructions to solar energy caused by the development of adjoining or other property or the growth of any trees or vegetation on such property.
2. The right to prohibit the development on or growth of any trees or vegetation on such property.

457.2. Ground Mounted PS-PVS

- A. Minimum lot size: The PS-PVS shall meet the lot size requirements of the underlying zoning district.
- B. Setbacks: PS-PVS shall comply with the setbacks of the underlying districts for principal structures.
- C. Height: Ground mounted PS-PVS shall comply with the building height restrictions for principal structures of the underlying zoning district.
- D. Impervious Coverage
 1. The area beneath the ground mounted PS-PVS is considered pervious coverage. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.

2. The applicant shall submit a Storm Water Management Plan that demonstrates compliance with the Liberty Township Stormwater Management Ordinance.

E. Ground mounted PS-PVS shall be screened from adjoining residential uses or zones according to the standards found in Section 312.

F. Ground mounted PS-PVS 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.

G. Security

1. All ground-mounted PS-PVS shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.

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

H. Access

1. At a minimum, a 25' wide access road must be provided from a state or township roadway into the site.

2. At a minimum, a 20' wide cartway shall be provided between the solar arrays to allow access for maintenance and emergency vehicles, including fire apparatus and emergency vehicles.

3. Solar panels shall not extend into the cartway.

4. Access to the PS-PVS shall comply with Section 309, and with the access requirements in the Liberty Township Subdivision and Land Development Ordinance.

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

J. If a ground mounted PS-PVS is removed, any earth disturbance resulting from the removal must be graded and reseeded.

457.3. Roof and Wall Mounted PS-PVS

A. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and all building codes adopted by the Township, and that the roof or wall is capable of holding the load imposed on the structure.

B. PS-PVS mounted on the roof or wall of any building shall be subject to the maximum height regulation of the underlying zoning district.

C. Wall mounted PS-PVS shall comply with the setbacks for principal, structures in the underlying zoning districts.

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

SECTION 14: REPEALER:

All provisions of the Liberty Township Zoning Ordinance are hereby revised and amended, as necessary and appropriate, in order to insure and confirm consistency thereof with the provisions of the present Ordinance. Any Ordinance or Resolution, or any portion of any Ordinance or Resolution, or any portion of the Liberty Township Zoning Ordinance, which is inconsistent with the contents of the present Ordinance shall be, and the same is hereby, repealed insofar as the same is affected by or inconsistent with the provisions of the present Ordinance.

SECTION 15: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the present Ordinance.

SECTION 16: EFFECTIVE DATE


The Ordinance shall be effective on and as of 7th day of April, 2020.

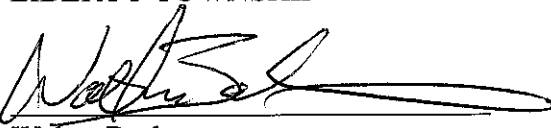
ENACTED AND ORDAINED into an Ordinance this 7 day of April, 2020.

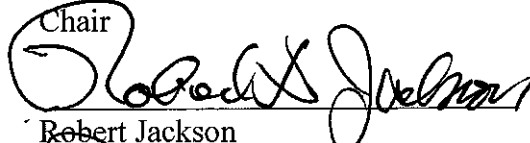
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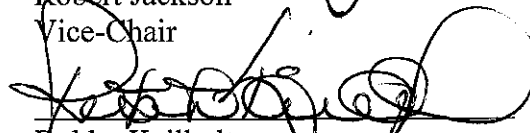
TOWNSHIP OF LIBERTY
ADAMS COUNTY,
PENNSYLVANIA

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