

TOWNSHIP OF WANTAGE

**AN ORDINANCE AMENDING CHAPTER 13 OF THE COMPREHENSIVE LAND USE
ORDINANCE OF THE TOWNSHIP OF WANTAGE TO PERMIT AND REGULATE
MINOR SOLAR ENERGY SYSTEMS AND TO ALLOW MAJOR SOLAR ENERGY
SYSTEMS AS A CONDITIONALLY PERMITTED USE
ORDINANCE #2011-12**

WHEREAS, the purpose of this Ordinance is to promote the safe, effective and efficient use of solar energy systems to reduce the on-site consumption of utility supplied electricity, and

WHEREAS, the governing body of the Township of Wantage has determined the following:

1. Solar energy is an abundant, renewable, and nonpolluting energy resource.
2. Converting the sun to electricity will reduce our dependence on nonrenewable energy sources, and decrease air and water pollution that results from the use of conventional energy sources.
3. Distributed solar energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio.
4. Solar energy systems make the electricity supply market more competitive by promoting customer choice.

WHEREAS, New Jersey's Renewable Portfolio Standards require each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey, to provide a percentage of their retail electricity sales from renewable energy sources, 6.5 percent as of June 1, 2008, and increasing to 22.5 percent by June 1, 2020, and

WHEREAS, the Governing Body finds it is necessary to standardize and streamline the requirements for solar energy systems so that these clean, renewable energy resource can be utilized in a cost-effective and safe manner in our municipality, and

WHEREAS, the Wantage Township Committee adopted a Master Plan and Master Plan Update which recommend that ordinances should be updated to reflect changing trends and conditions and the creation of an ordinance governing alternative energy sources is a response to changing trends in the production of renewable energy throughout New Jersey and the United States.

NOW THEREFORE, BE IT ORDAINED by the Governing Body for the Township of Wantage, Sussex County, New Jersey that Chapter XIII, The Land Use Ordinance of the Township of Wantage, is hereby amended as follows.

Section 1. Section 13-2 is amended by the addition of the following definitions:

"Major Solar Energy System" means a solar or photovoltaic system consisting of panel arrays either mounted to a structure(s) or ground arrays and associated conversion electronics which is designed either for on-site or the sale of electrical energy. For the purposes of this ordinance, a major solar energy system is any system covering one or more acres of land.

"Ridgeline"— the highest elevation of a mountain chain or line of hills

"Minor Solar Energy System" means a solar or photovoltaic system consisting of panel arrays either mounted to a structure(s) or ground arrays and associated conversion electronics which is designed primarily for on-site use. For the purposes of this ordinance, a minor solar energy system is any system covering less than one acre of land.

"Solar Panel" means a structure containing one or more photovoltaic receptive cells, the purpose of which is to convert solar energy into a usable electrical energy by way of a solar energy system.

Section 2. Section 13-14 is amended by adding the following permitted accessory structures and uses in the RE-5, HC, NC, LI, RC and the I Zone:

13-14.5 Minor Solar Energy Systems, as defined in Section 13-2, as accessory uses, in accordance with the standards set forth in Section 13-14.5A.

Section 3. Section 13-14.5A is added as a new section, as follows:

13-14.5A. MINOR SOLAR ENERGY SYSTEMS.

a. The primary purpose of a minor solar energy system, as defined in section 13-2, will be to provide power for the principal and accessory uses on the property but shall not be used for the generation of power for commercial purposes. This provision shall not be interpreted to prohibit the sale of any excess power generated from a solar energy system. For the purpose of this Ordinance, the sale of excess power shall be limited to generate no more energy for sale than what is otherwise necessary to power the uses on the property on a daily basis.

b. Minor solar energy systems shall only be permitted as an accessory use and located on the same lot as the principal use. All minor solar energy systems require site plan approval from the Land Use Board prior to installation. Applications for a minor solar energy system shall include information demonstrating compliance with the provisions of this Ordinance. Further since it is important to preserve the scenic beauty of the Township's ridgelines as commonly understood, the Land Use Board shall make the final selection as to the location of solar panels taking into consideration ridgelines, scenic vistas, the location of the residence and other structures on the property, nearby residences and other pertinent factors. Tree removal on slope plateaus or ridge faces shall be subject to a tree management plan which shall be approved by the Township. No solar structures shall be erected which would lie atop the crest of an unwooded hill or plateau. Structures may be erected on hilltops or plateaus only where such hills or plateaus are substantially buffered by trees of at least thirty-five (35) feet in height and would remain that height or higher by either an approved tree management plan and/or appropriate conservation restrictions regulating the use of the property.

c. Minor solar energy systems shall be permitted in the R-5, HC, I, LI and AH zoning districts and are subject to the following requirements:

1. Minor solar energy systems shall not be permitted in any front yards, unless in the opinion of the Land Use Board the front yard is the most suitable place, based upon topographic conditions.
2. Access. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
3. Utility notification and interconnection. Solar energy systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems.

d.. Electromagnetic Interference.

1. If documentation is provided that indicates that the installation is causing electromagnetic interference to any abutting property, the installation shall be deemed a public nuisance which nuisance shall be corrected within ninety (90) days of receipt of a notice of violation. If the electromagnetic interference can not be remedied, the installation shall be removed or relocated, as appropriate.

e. Minor Solar Energy Systems

1. Rooftop Solar Panel Installations

- (a) Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of twelve inches from the rooftop.

- (b) Panels installed in a rooftop configuration must be installed not more than one foot beyond the actual boundaries or edges of the roof.
- (c) The preferred location for solar panels installed in a rooftop configuration is on the rear roof area except on any roof of a lakefront lot. Solar panels installed on a rooftop configuration on the roof of a structure located on a lakefront lot are preferred to be installed on the front roof area. If the applicant makes a showing to the satisfaction of the construction official that the rooftop configuration cannot be installed on the rear roof area or the front roof they may be installed on other appropriate roof areas.

2. Ground Mount Solar Panel Installations

- (a) Ground arrays shall not be permitted in the front yard.
- (b) Ground arrays shall be setback a minimum of 20 feet from side or rear property lines in all residential zones or in conformance with the required setbacks for accessory structures in non-residential zones.
- (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
- (d) Ground arrays shall not exceed a height of 15 feet.
- (e) A solar energy system shall not add, contribute to, or be calculated to cause an increase in impervious coverage for the purposes of conforming to zone standards.
- (f) Buffering shall be provided within the 20 foot setback as deemed appropriate by the Board.

f. A zoning permit and building permit shall be required for the installation of a minor solar energy system. Documents required for a zoning permit shall include the following:

1. Survey of the property.
2. Location, dimensions (including height) of existing major structures on the property.
3. Location, dimension and type of proposed energy system including all structures accessory to the system.
4. Manufacturer solar energy system specification including manufacturer and model.
5. Proof of notification of the utility company for interconnection purposes.
6. Other documents and plans containing enough information concerning the installation of the system for the zoning official to make a formal decision concerning conformance with the ordinance standards. The amount and accuracy of information provided shall be in the judgment of the zoning official.

g. Abandonment.

1. A minor solar energy system energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned.
2. The zoning officer shall issue a "Notice of Abandonment" to the owner. The notice shall be sent via regular mail and certified mail return receipt requested to the owner of record.
3. Any abandoned system shall be removed at the owner's sole expense within six months after the owner receives the "Notice of Abandonment" from the municipality, If the system is not removed within six months of receipt of notice from the Township notifying the owner of such abandonment, the Township may remove the system as set forth below.
4. Upon removal, the site shall be cleaned, restored, and revegetated, if necessary, to blend with the existing surrounding vegetation at the time of abandonment.

h. Notice. Notice of hearings for consideration of solar energy systems by the Land Use Board shall be given of the application in accordance with N.J.S.A. 40:55D-10.

.i. Fees and escrows shall be in accordance with applicable Ordinances.

Section 4. Sections 13-5 RE-5 Residential Environs District 5, 13-9 Highway Commercial District, 13-11 Limited Industrial District, 13-12 I Industrial District, shall be amended to permit major solar energy systems as a conditionally permitted use in the district.

Section 5. The purpose of this section is to amend Section 13-24 by adding a new section number 13-24.22 entitled "Major Solar Energy Systems".

a. Purpose. The purpose this subsection is to create the opportunity to locate major solar energy systems in locations in which there will be no substantial impact on the rural scenic character of Wantage Township. To accomplish this objective, this subsection establishes location priorities and setback to enforce of the use of appropriate lands as a means of providing renewable energy resources for not only surrounding properties but the entire grid.

b. Conditional Use Standards. In addition to meeting the standards set forth for minor solar energy systems, major solar energy systems shall be permitted as a conditional use providing the following specific conditional use standards are met:

1. Conditions of Approval.
 - (a) The use shall front on a State or County Road or on a service road with direct access to a State or County Road.
 - (b) Minimum lot area is ten (10) acres.
 - (c) Minimum lot frontage as required by the Zone.

- (d) All structures, panels and the like shall be setback a minimum of 100 feet from all property lines.
- (e) The entire area shall be fenced and appropriately screened from all adjoining properties. Said landscaping buffer to be provided according to Section 2 below and as specifically required by the Land Use Board. Maintenance of said landscaped buffer shall be in accordance with an approved Maintenance Plan.
- (f) Grading within Prime Farmland and Farmlands of Statewide Significance shall be limited to only that necessary to construct access roads, berms for screening and for construction of inverter and switching equipment pads.
- (g) Except pursuant to a permit issued by the New Jersey Department of Environmental Protection (NJDEP), no portion of a major solar energy system and structures shall occupy areas of land designated and regulated by NJDEP as floodplains, flood hazard areas, wetlands, wetlands transition areas or riparian corridors. An applicability determination from the NJDEP shall be provided to document the presence and/or absence of these regulated areas.
- (h) Applicant shall adhere to all specific requirements contained in the section of the Ordinance entitled "Solar Energy Systems" except as modified herein.

2. Screening and buffering: The following minimum screening requirements shall be met. However, notwithstanding the minimum requirements, the applicant shall demonstrate, to the satisfaction of the Land Use Board or Zoning Board, whichever has jurisdiction, that the proposed screening provides a visual screen of the facility from neighboring properties. Additional screening may be needed to meet this requirement as determined by the board of jurisdiction.

- (a) Screening shall consist of a combination of native plantings, to the extent possible. Alternately, an earthen berm may be employed if existing vegetated screening and native plantings will not suffice to provide the necessary buffer and maintain the rural character of the Township. The need for and location of vegetative screens includes the identification of appropriate species and varieties of vegetation to ensure that there is adequate visual screening throughout the year.
- (b) The landscaping plantings shall be designed for enhancing the quality of the soil and the ability of the land to absorb rainwater.

- (c) Landscaping shall be limited to the extent possible of native species of deciduous and coniferous trees and shrubs that are indigenous to the area, as listed in the Natural Resource Inventory, and shall not include invasive species as listed in Natural Resource Inventory of Wantage Township. Such plantings shall be depicted on a plan prepared by a licensed professional. The applicant shall rely upon existing vegetation, including existing hedgerows or windbreaks that provide screening, to the maximum extent practical. The appropriate height or caliper of the vegetation to be planted shall ensure that there is a 75 percent screening of the solar energy generation facilities within five years of completing the installation of the facilities. A photo simulated exhibit depicting screening at key locations at the projected five year period shall be required.
- (d) A barrier shall be installed behind the required screen which shall:
- i. Secure the facility at all times.
 - ii. Restrict access to all electrical wiring that may be readily accessible.
 - iii. All electrical control equipment shall be labeled and secured to prevent unauthorized access.
 - iv. Conform to the Uniform Construction Code and other applicable standards.
 - v. One or more access gates to the facility shall be provided. Each access gate shall include a sign identifying the property owner as well as responsible parties for operation of the major solar and photovoltaic energy facilities and structures; for maintenance of the facility; and for maintenance of the visual screen, landscaping and security fence. Contact information for all of the above responsible parties shall be provided on each access gate sign.
 - vi. No signs shall be posted on a solar facility or any associated building, structures, or fencing with the exception of access gate signs, appropriate warning signs, and manufacturer's or installer's identification.
 - vii. All transformers and high voltage equipment shall be situated within a compound, which shall be enclosed within a security fence and access gate, which shall remain locked at all times. If appropriate, the entire facility shall be enclosed within a security fence and access gate.
 - viii. The height of security fences and access gates shall not exceed 8'. Barbed wire fences are not permitted except in cases where it is demonstrated to the satisfaction of the board of jurisdiction that barbed wire fencing is required for security purposes. In such cases the total height of the fence and access gates including barbed wire shall not exceed 8'. Approval of barbed wire fencing for solar facilities is at the discretion of the board of jurisdiction.

- (e). Maintenance Plan shall be submitted by the applicant for the continuing maintenance of all required plantings, including a schedule of specific maintenance activities to be conducted. A Maintenance Plan narrative shall also be included on the site plans in note form. Maintenance of the required landscaping and fencing shall be a continuing condition of any approval that may be granted. A cost estimate for required plantings shall be presented as part of any application and a 5 year maintenance bond approved by the Township Engineer shall be a condition of approval. The Maintenance Plan shall be environmentally responsible.
 - (f). All ground areas occupied by a major solar or photovoltaic energy facility or structure installation that are not utilized for access to operate and maintain the installation shall be planted and maintained with shade tolerant grasses for the purpose of soil erosion control and soil stabilization:
3. Decommissioning Plan. All applications for a major solar energy system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of major solar energy systems. The decommissioning plan shall be submitted in accordance with the requirements of this section. The decommissioning plan shall also be documented on the site plans in note form. Prior to removal of solar energy systems a demolition permit for removal activities shall be obtained from the Wantage Township construction official. Prior to issuance of a demolition permit, the owner or operator of the facility shall post a performance bond to ensure removal of the facility or systems in accordance with the decommissioning plan. Disconnection of solar energy systems shall be supervised by an electrician licensed in the State of New Jersey. The Zoning Official shall be responsible for compliance with the decommissioning plan.
- (a) Solar and photovoltaic energy facilities and structures which have not been in active and continuous service for a period of 18 months shall be removed from the property to a place of safe and legal disposal in accordance with a Decommissioning Plan. In order for the facility to maintain its status as an operating solar farm, an annual report shall be submitted to the Township Zoning Official stating the amount of electricity generated by the facility in the previous year and the number of days the facility was operational.
 - (b) If the applicant ceases operation of the energy facility for 18 months; or begins, but does not complete, construction of the project within 18 months of receipt of final site plan approval, the applicant shall restore the site according to a decommissioning plan prepared by the applicant and approved by the Board. The applicant shall submit a decommissioning plan that ensures that the

site will be restored to a useful, non-hazardous condition without significant delay, including but not limited to the following:

- (1) Removal of aboveground and underground equipment, structures and foundations. The plan shall describe the means by which all equipment and components of the system(s) shall be disposed of in an environmentally responsible manner and in accordance with prevailing Federal, State and local regulations.
 - (2) Restoration of the surface grade and soil after removal of aboveground structures and equipment.
 - (3) Revegetation of restored soil areas with native seed mixes, plant species suitable to the area, which shall not include any invasive species. In farmland areas, the revegetation component of the decommissioning plan may include provisions to resume agricultural use of the site.
 - (4) The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration. The decommissioning of all solar energy generation facilities shall be done in accordance with a conservation plan designed to address the impacts of the decommissioning process.
 - (5) The plan must include a timeline for completion of site restoration work.
- (c) A cost estimate shall be provided for the cost of fully implementing the Decommissioning Plan prior to the issuance of a demolition permit. The cost estimate shall be subject to review and approval by the Township Engineer.
- (d) Before beginning any decommissioning activities, the applicant must submit a performance bond in a form and amount satisfactory to the Township Attorney, which shall be based upon an estimate approved by the Township Engineer, assuring the availability of adequate funds to remove the solar infrastructure and restore the site to a useful, non-hazardous condition in accordance with the Decommissioning Plan.
- (e) Upon cessation of activity for a cumulative period of 18 months of construction or installation activities of an approved major solar energy system, the Township shall notify the owner and/or the operator of the facility to complete construction and installation of

the facility. If the owner and/or operator fail to complete construction and installation activities within 180 additional days, the Township may order the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or or operator shall substantially complete all activities in the decommissioning plan.

- (f) Upon cessation of activity of a fully constructed major solar energy system for a cumulative period of one year, the Township shall notify the owner and/or the operator of the facility to implement the decommissioning plan. The Township Zoning Official shall be responsible for enforcement. Within 180 days of notice being served, the owner and/or operator shall either resume energy generation to at least 80% capacity of the facility or system as established at the time of approval, or fully implement the decommissioning plan. If, within 180 days of receipt of notice, the owner and/or operator of the facility or system fail to resume energy generation to at least 80% of capacity of the facility or system as established at the time of approval, the Township shall order the owner and/or operator of the facility to implement the decommissioning plan.
- (g) If the operator fails to fully implement the decommissioning plan subject to the procedures and timelines set forth in subsections (e) and (f) above, or is otherwise unable to restore the site as required within 180 days of the Township's service of notice in accordance with this section, the Township may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may in accordance with the law recover all expenses incurred for such activities from the defaulted operator and/or the property owner. The costs incurred by the municipality shall be assessed against the property, shall become a lien and tax upon the said property, shall be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provisions) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

Section 7. Repealer. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 8. Public Notice. The Municipal Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the County Planning Board and to all other entities thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this ordinance, after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 9. Effective Date. This ordinance shall take effect after publication and passage according to law.

William DeBoer, Mayor

ATTEST:

James R. Doherty, Administrator/Clerk

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Mayor and Township Committee of the Township of Wantage, County of Sussex, New Jersey, held on November 10, 2011, and will be considered for final passage after public hearing at a regular meeting of the Mayor and Township Committee to be held on December 8, 2011, at 7:00 p.m. in the Municipal Building, 888 Route 23 South, New Jersey. During the preceding week, copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

James R. Doherty, Administrator/Clerk