

ORDINANCE NO. 1 -2021

AN ORDINANCE OF THE TOWNSHIP OF NORTH ANNVILLE AMENDING THE NORTH ANNVILLE TOWNSHIP ZONING ORDINANCE OF 1973 IN ORDER TO AMEND THE DEFINITION OF "SOLAR FARM" AND AMENDING THE AGRICULTURAL ZONE OF THE NORTH ANNVILLE TOWNSHIP ZONING ORDINANCE REGARDING PROVISIONS FOR A CONDITIONAL USE FOR SOLAR FARMS. ARTICLE 5 IN THE SUPPLEMENTAL DISTRICT REGULATIONS IS AMENDED AT SECTION 522, WHICH PROVIDES CONDITIONS FOR THE ESTABLISHMENT OF A SOLAR FARM IN NORTH ANNVILLE TOWNSHIP.

WHEREAS, North Annville Township adopted the North Annville Township Zoning Ordinance of 1973;

WHEREAS, North Annville Township has a large area within its borders which is zoned Agricultural;

WHEREAS, The Township has recently had a number of land owners who have demonstrated interest in the establishment of Solar Farms within the Township;

WHEREAS, Solar farms exist for the creation of electrical power from the sun for sale of that power to the commercial market;

WHEREAS, on or about October 14, 2019 North Annville Township adopted Ordinance No. 2-2019 which adopted a conditional use for Solar Farms in the Agricultural District.

WHEREAS, the Township now desires to amend Ordinance No. 2-2019.

AND NOW, BE and it HEREBY is ORDAINED and ENACTED by the North Annville Township Board of Supervisors amending the North Annville Township Zoning Ordinance of 1973, as previously amended by Ordinance No. 2-2019 as follows:

1. **DEFINITIONS:** Article II, Section 201.4, is hereby amended by the addition of the following definition which shall state as follows:

- a. **Solar Farm** (Utility Scale Solar Application): A Solar Application and/or Applications installed on land for the sale of solar energy for the purpose of commercial gain by the Landowner or Tenant of the subject parcel.

Article II, section 201.4 shall be amended by the addition of the following:

- a. **Implements:** shall be defined as any instruments and/or physical structures or apparatus in any way related to the installation, operation or maintenance of any solar array or panels or any related apparatus installed upon a property for the purpose of the operation and maintenance of a solar farm or solar application and/or solar panel use.

(Note: The Definition for Lot shall be as currently defined in Section 201.4)

2. **CONDITIONAL PERMITTED USE:** Article IV, Section 401.1 is hereby amended by the amendment of sub-section O (adopted by Ordinance No. 2-2019) which shall state as follows:

- O. Solar Farms upon compliance with certain conditions defined in Section 522 and after Notice and Hearing before the North Annville Township Board of Supervisors. Said Hearing shall be held upon requisite Notice as required by the Municipalities Planning Code and opportunity for comment by the Planning Commission.

3. **CONDITIONS:** Article 5, Supplemental District Regulations, is amended at Section 522 (adopted by Ordinance No.2-2019) to state as follows:

Section 522 – As of the effective date of this Ordinance, Solar Farms (Utility Scale Solar Applications) shall be a conditional use subject to the following conditions:

- a. No Solar Farm may be established upon any farm land or Agriculturally Zoned land which has an Agricultural Conservation Easement filed against it which remains in effect.
- b. The minimum lot size for the establishment of any Solar Farm shall be fifty (50) acres and all fifty acres must be located on one lot and the lot must be entirely in the township Agricultural zoning district.
- c. The solar panels and/or other implements used in the construction and structure of the Solar Farm, including, but not limited to, any solar panels and other implements related to the use including power lines shall be set back a minimum of one hundred (100) feet from any non-residential property line and one hundred fifty (150) feet from any residentially zoned property line or residentially zoned area or any occupied structure. Additionally any implements related to the solar use shall be set-back a minimum of 100 ft. from any public right of way. Any sub-station or switching station associated with the solar use shall be set back a minimum of 500 feet from any occupied residential structure. The use shall be setback a minimum

of one-hundred and fifty (150) feet from any public or private cemetery.

- d. A permanent evergreen vegetative buffer must be provided around the implements of the solar use including but not limited to the solar panels associated with the use. Any evergreen buffer installed shall consist of two (2) rows evenly spaced. The latter row being calculated to grow higher than the front row. The screen can be either a hedge ("planted three (3) feet on center maximum") or a row of evergreen trees ("planted height (8) feet on center maximum"). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to minimum of fifteen (15) feet at maturity. Additionally a safety fence shall be installed around the use as required by the National Electrical Code, as amended. A maintenance bond shall be supplied to the township for maintenance of the evergreen buffer in an amount estimated by a professional engineer to be in an amount appropriate for the maintenance and/or replacement of the evergreen buffer if necessary.
- e. The maximum lot coverage may not exceed twenty five (25%) percent of the total lot size and this area is to be calculated as the entire area including the outside perimeter of the evergreen buffer and includes any existing buildings.
- f. The Applicant must demonstrate that it has adequate liability insurance in minimum amounts of two million (\$2,000,000.00) per incident and five million dollars

(\$5,000,000.00) per aggregate. These policies of insurance must be obtained for each lot. These amounts must be reviewed annually by an independent agency at the operator's expense and said amounts may be increased in accordance with any recommendations of the independent review.

- g. The Applicant must demonstrate and provide adequate bonding to remain in place to be used by the Township if the applicant ceases operation and fails to remove the panels and other implements related to the use within one hundred and eighty (180) days of the cessation of operation. Bonding required by this condition shall be reviewed every five (5) years by a professional engineer. The initial bonding shall be set by a professional engineer and shall take into account any and all costs necessary to remove a defunct or non-functioning solar use (solar panel system) and any and all implements related to the use and return the land to its original state. New bonding shall be produced by the owner/operator in accordance with the opinion of the professional engineer. The cost of the opinion of the professional engineer shall be paid by the operator/land owner. Upon the cessation of the Solar Use the Land shall be returned to its original state before the installation of the Solar Use.
- h. The Applicant must have an approved Stormwater Management Plan as required by the Lebanon County Stormwater Management Ordinance.

- i. The Noise level generated by the Solar Facility System Use shall not exceed fifty (50) decibels as measured by a sound level meter from the nearest property lot line.
- j. In addition, the applicant must supply information to the township identifying the party who shall hold a key and maintain access to the solar use. The Applicant shall provide sufficient contact information for an individual or agent of the Applicant in case of an emergency. Applicant shall provide to Township an operator agreement with a licensed and/or qualified operator related to the use .
- k. All principal solar energy systems shall be placed so that concentrated solar radiation or glare does not project onto structures or roadways.

4. **CONDITIONAL USE PROCEDURE.**

- a. The Board of Supervisors shall hold hearings on and decide requests for such Conditional Uses in accordance with such standards and criteria as above stated.
- b. The Hearings shall be conducted by the Board of Supervisors or the Board may appoint any member or Independent Attorney as a Hearing Officer.
- c. A decision or, where no decision is called for, the findings shall be made by the Board of Supervisors.

- d. The Petitioner or the Applicant, as the case may be, in addition to the Municipality may, prior to the decision of the Board of Supervisors, waive the decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
- e. In granting a Conditional Use, the Board of Supervisors may attach such reasonable conditions and safeguards in addition to those expressed in the Ordinance as it may deem necessary to implement the purposes of the MPC and in the Zoning Ordinance.
- f. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on a Conditional Use Application within forty-five (45) days after the last hearing before the governing body.
- g. Where the Application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore.
- h. Conclusions based on any provisions of MPC or any ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- i. Where the Board of Supervisors fails to render a decision within the period required by this Ordinance or fails to commence, conduct or complete the required hearing as

provided in the Municipalities Planning Code, the decision shall be deemed to have been rendered in favor of the Applicant, unless the Applicant has agreed in writing or on the record to an extension of time.

5. **ANNUAL REPORT:** The operator of the commercial solar use shall annually make a report to the Township regarding the power generated.
6. **ANNUAL INSPECTION BY TOWNSHIP:** The Township Engineer or designated Representative may inspect the facility and grounds on an annual basis and make a report to the Township. Before making the inspection, the Engineer or Township Representative shall give reasonable notice to the operator that such inspection shall occur and said notice shall include the time and date.
7. **REPEALER:** All Ordinances or parts of Ordinances that are inconsistent herewith, shall be and the same are expressly repealed.
8. **SEVERABILITY:** In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this local government unit that such remainder shall be and shall remain in full force and effect.
9. **EFFECTIVENESS:** This Ordinance shall become effective in accordance with law.

DULY ENACTED AND ORDAINED, this 11th day of October, 2021, by the governing body of this Township, in lawful session duly assembled.

ATTEST:

Adam Wolfe

**NORTH ANNVILLE TOWNSHIP
SUPERVISORS**

Randall H. Linn
Chairman

Clyde B. Meyer
Vice Chairman