

UNION DALE BOROUGH SOLAR ENERGY SYSTEMS

ORDINANCE NO. 2024 - 001

AN ORDINANCE OF THE BOROUGH OF UNION DALE, SUSQUEHANNA COUNTY, COMMONWEALTH OF PENNSYLVANIA REGULATING SOLAR ENERGY SYSTEMS

IT IS HEREBY ENACTED AND ORDAINED by the Union Dale Borough Council, Susquehanna County, Commonwealth of Pennsylvania, that the instant ordinance titled “Solar Energy Systems” shall regulate the development, construction, operation and decommissioning of all solar energy systems within the Borough of Union Dale.

§ 1 – GENERAL PROVISIONS

- 1.1 Purpose: The purpose of this Ordinance is to provide for the development, construction, operation and decommissioning of all solar energy systems within the Borough, subject to reasonable conditions that will protect the public health, safety and welfare.
- 1.2 Authority: This Ordinance is enacted under the authority of the Pennsylvania Municipalities Planning Code and all applications made hereunder shall be subject to the procedures applicable to other land developments, including review by the Susquehanna County Planning Department.

§ 2 – DEFINITIONS

ACCESSORY SOLAR ENERGY SYSTEM: An area of land used for a solar collection 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.

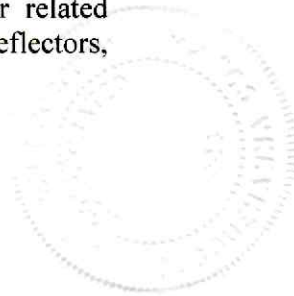
GLARE: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

LANDOWNER: The individual taxpayer that the deeded property belongs to.

OCCUPIED BUILDING: A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the land development application is submitted

OPERATOR: The entity responsible for the day-to-day operation and maintenance of the Solar Energy System.

PRINCIPAL SOLAR ENERGY SYSTEM: An area of land used for a solar collection system principally used 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 free-standing solar collector devices, solar related equipment and other accessory structures and building including light reflectors,



concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

PRINCIPAL SYSTEM OWNER: Individual or entity that makes use of property in Union Dale Borough for the purpose of installation and operation of a solar energy system, who may or may not be the owner of the property upon which the subject system is being installed and operated, and who may incur liability for the violation of this Ordinance.

SOLAR EASEMENT: A solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, lease, or other written instrument executed by or on behalf of any landowner of the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY: Radiant energy (direct, diffused and/or reflective) received from the sun.

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 the use in space heating or cooling, for water heating and/or for electricity.

SYSTEM HEIGHT: The distance measured from the surface of the foundation to the highest point of the Collector face..

§ 3 ACCESSORY SOLAR ENERGY SYSTEMS

3.1 Residential Solar Energy Systems (hereinafter “accessory systems”) shall be permitted on any lot, provided as follows:

3.1.1 Accessory systems with an aggregate collection and/or focusing area of Four Hundred and Eighty (480) square feet or less shall be exempt from this ordinance.

3.1.2 Accessory systems constructed prior to the effective date of this Ordinance shall not be required to meet the terms and condition of this Ordinance. Any physical modification to an existing accessory system, whether or not existing prior to the effective date of this Ordinance, that materially alters the size of the accessory system shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require approval or new permitting.

3.1.3 The layout, design, installation, and ongoing maintenance of an accessory system shall comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended, including all required permits and inspections, and all other applicable and life safety requirements. The manufacturer specifications for the key components of the accessory system shall be submitted as part of the application.

3.1.4 Upon completion of installation, the accessory system shall be maintained in good working order in accordance with standards of the Uniondale Borough and Susquehanna County Ordinances including, but not limited to, the UCC, under which the accessory system was constructed. The subject use shall conform to and

be maintained in accordance with the above-mentioned manufacturer specifications for the entire life of the use. Failure of the homeowner to maintain the accessory system in good working order is grounds for appropriate enforcement actions by Union Dale Borough in accordance with applicable ordinances.

- 3.1.5 All on-site utility, transmission lines, and plumbing shall be placed underground.
- 3.1.6 The owner of an accessory system shall provide Union Dale Borough written confirmation that the public utility company to which the system will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.
- 3.1.7 No advertising signage or graphic content may be displayed on the solar photovoltaic system except the manufacturer's badge, safety information, and equipment specification information. Said information shall be depicted within an area no more than thirty-six (36) square inches in size.
- 3.1.8 All accessory systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. 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.
- 3.1.9 Where a subdivision or land development involves the use of accessory systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. 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 easement shall include but not be limited to:
 - 3.1.9.1 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;
 - 3.1.9.2 Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 - 3.1.9.3 Enumerate terms and conditions, of any, under which the easement may be revised or terminated;

If required, an accessory 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)

- 3.1.10 Applicants must acknowledge in writing that the issuing of an approval for an accessory system shall not and does not create in the land owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
- 3.1.11 Each accessory system 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, Solar Lessee, and/or other operator, or upon termination of the useful life of same. The system 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. The system owner shall, at the request of the Borough, provide information concerning the amount of energy generated by the accessory system in the last twelve (12) months.
- 3.2 Accessory solar energy systems shall be subject to the following standards:
- 3.2.1 The minimum setbacks from property lines for accessory structures shall not be less than twenty (20) feet in front, and shall not be less than ten (10) feet on the sides. The accessory structures shall also not be less than 1.5 times the system height from all occupied buildings and all roads. Upon request, the Borough may grant partial waivers of setback requirements hereunder where it has determined that literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question and provided that such waiver will not be contrary to the public interest. The Borough may take into consideration the support or opposition of adjacent property owners in granting waivers of setback requirements hereunder.
- 3.2.2 The system height of accessory systems shall not exceed fifteen (15) feet.
- 3.2.3 Accessory systems shall be screened from any adjoining occupied structures within one-hundred (100) feet, which screen shall consist of evergreen plant materials that provides an effective visual screen in keeping with the character of the area. In lieu of a planting screen, a decorative six (6) feet tall fence may be used to provide a visual screen.
- 3.2.4 Appropriate safety/warning signage concerning voltage shall be placed on ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the accessory system shall be locked or fenced to prevent unauthorized access or entry.
- 3.2.5 Accessory systems shall not be placed within any legal easement or right-of-way location, nor 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.

3.3 Fee

3.3.1 Union Dale Borough shall collect a fee of Five Hundred Dollars (\$500.00) at the time of acceptance of an application for installation of an accessory (a/k/a residential) solar energy system. This fee may be modified from time to time by resolution by the Borough Council. The fee shall supplement the administration of this Ordinance, and shall likewise compensate the Union Dale Codes Enforcement Officer and/or the Building Codes Officers to visit the site and conduct necessary investigations.

3.3.2 By submitting an application for an accessory solar energy system, the landowner and system owner grant the Borough of Union Dale, and all local emergency services, an irrevocable right to enter the deeded property upon which the accessory solar energy system is located for the limited purposes of inspecting and regulating the subject system.

§ 4 **PRINCIPAL SOLAR ENERGY SYSTEMS**

4.1 Principal solar energy systems (“principal systems”) constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of the Ordinance. Any physical modification to an existing principal system, whether or not existing prior to the effective date of this Ordinance, that materially alters the system shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require approval or new permitting.

4.2 The layout, design, installation, and ongoing maintenance of a principal system shall comply with the PA Uniform Construction Code (UCC), Act 45 of 1999, as amended, including all required permits and inspections, and all other applicable and life safety requirements. The manufacturer specifications for the key components of the principal system shall be submitted as part of the application. Upon completion of installation, the principal system shall be maintained in good working order in accordance with standards of the Union Dale Borough and Susquehanna County Ordinances and codes under which the principal system was constructed, including, but not limited to, the UCC. The subject use shall conform to and be maintained in accordance with the above-mentioned manufacturer specifications for the entire life of the use. Failure of the landowner and/or principal system owner to maintain the principal system in good working order is grounds for appropriate enforcement actions by Union Dale Borough in accordance with applicable ordinances. Any fines imposed pursuant to the subject Ordinances may be imposed against both the landowner and principal system owner.

4.3 The principal system installer must demonstrate they are listed as a certified installer on the Pennsylvania Department of Environmental Protection’s (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer.

4.4 All on-site utility transmission and plumbing lines shall be placed underground.

- 4.5 The owner of a principal system shall provide to Union Dale Borough written confirmation that the public utility company to which the principal system will be connected has been informed of the customer's intent to install a grid connected system and has approved such connection.
- 4.6 No portion of the principal system shall obtain 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 system.
- 4.7 All principal systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. 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.
- 4.8 Noise from a principal system shall not exceed fifty (50) dBA, as measured at the property line. The applicant and/or operator shall be responsible for establishing and certifying to the Borough the required decibel level prior to approval of the solar energy facility. This work shall be done by a professional engineer.
- 4.9 No trees or other landscaping otherwise required by Borough Ordinances or attached as a condition approval of any plan, application, or permit may be removed for the installation or operation of a system.
- 4.10 The principal system 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 Union Dale Borough. The principal system owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- 4.11 The principal system owner and/or operator shall conduct/provide on-site solar energy/solar panel and associated solar related equipment safety training for local firefighters and emergency responders prior to commissioning, energizing, and/or activating the system. Any and all fire suppression or other emergency measures determined necessary by the primary emergency service providers for the property shall be provided and evidenced by the providers' written confirmations.
- 4.12 The principal system owner and/or operator shall make all efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Solar Energy System.
- 4.13 There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to the Borough and/or Susquehanna County upon request.
- 4.14 Decommissioning of the principal system shall be subject to the following:
 - 4.14.1 The principal system owner is required to notify Union Dale Borough immediately upon cessation or abandonment of the operation. The principal system shall be

presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.

- 4.14.2 The principal system owner shall then have nine (9) months in which to dismantle and remove the principal system 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 principal system owner fails to dismantle and/or remove the principal system within the established timeframes, the Borough may complete the decommissioning at the principal system owner's expense. Upon application for permit for the purpose of installation of a solar energy system, the principal system owner hereby agrees to be liable for all costs of decommissioning pursuant to this system, together with all court costs and attorneys' fees incurred by the Borough in collection of any such funds.
- 4.14.3 At the time of issuance of the approval for the construction of the principal system, the principal system owner shall provide financial security in the form and amount acceptable to Union Dale Borough to secure the expense of dismantling and removing said system, regrading as necessary and revegetation/seedling of any disturbed areas to provide erosion control. Specifically, owner shall post a bond for decommissioning in an amount necessary to cover the expense to dismantle and remove the principal system 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, as security if owner fails to comply with the above decommissioning requirements. In lieu of the bond, owner may deliver other security acceptable to Union Dale Borough. The amount of financial security required shall be updated every five (5) years utilizing decommissioning costs estimated by the principal system owner and validated by Union Dale Borough, and/or its employees and/or engineers. Failure to update the amount of financial security shall be cause to order the immediate dismantling of the principal system using existing security, which shall not be released until replaced with the approval of the Borough.
- 4.15 Prior to the issuance of a land development approval for a principal system, applicants must acknowledge in writing that the issuing of said approval shall not and does not create in the landowner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
- 4.16 Where a subdivision or land development proposes a principal system, solar easements may be provided. Said easements shall be in writing, specifically depicted on the land development plan with metes and bounds and shall be subject to the same conveyance and instrument recording requirements as other easements. 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 easement shall include but not be limited to:

- 4.16.1 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;
- 4.16.2 Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
- 4.16.3 Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

If necessary, a principal 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).

4.17 The following standards shall apply to principal systems:

- 4.17.1 The principal system shall not be less than one hundred (100) feet from any occupied building. The principal system shall not be less than one hundred (100) feet from any property line and/or any road. Battery storage systems shall be located a minimum of two hundred (200) feet from any property line and be placed on concrete pads. No principal system element shall be placed within any wetland. Upon request, the Borough may grant partial waivers of setback requirements hereunder where it has determined that literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question and provided that such waiver will not be contrary to the public interest. The Borough may take into consideration the support or opposition of adjacent property owners in granting waivers of setback requirements hereunder.
- 4.17.2 The system height of a principal system shall not exceed fifteen (15) feet.
- 4.17.3 The applicant shall submit a Stormwater Management Plan that demonstrates compliance with Union Dale Borough stormwater management regulations. Principal system owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.
- 4.17.4 Principal systems shall be screened from adjoining occupied buildings within two hundred (200) feet of any part of a system and/or occupied buildings on opposite side of any road and visible from the proposed solar development. The screen shall consist of two rows of evergreen trees on fifteen feet (15') staggered centers to provide a visual screen. Evergreens shall be a minimum of three feet (3') tall when planted. Immediate replacement of dead trees shall be required, and all buffers shall be in keeping with the character of the area.
- 4.17.5 Principal systems 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.

- 4.17.6 All principal systems shall be completely enclosed by a minimum seven (7) foot high fence with a self-locking gate. Security fencing should nonetheless be of the height that makes it non-climbable with additional deterrents attached to the top. 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 system informing individuals of potential voltage hazards. The subject fence shall be considered a part of the principal system and shall meet the setback requirements of this Ordinance.
 - 4.17.7 At a minimum, a twenty-five foot (25') wide paved access road must be provided from a State or Borough roadway into the site. At a minimum, a twenty foot (20') wide gravel access drive with five foot (5') grassed shoulders shall be provided through or around the solar arrays to the pad mounted equipment to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. (This section shall not apply to access drives between the solar racks).
 - 4.17.8 A principal system shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.
 - 4.17.9 If a system is removed, any earth disturbance resulting from the removal must be graded and reseeded.
 - 4.17.10 If the proposed principal solar energy system will occupy any part of an approved Agricultural Security Area the applicant shall document how it intends to minimize agricultural impacts.
- 4.18 Fee
- 4.18.1 Union Dale Borough shall collect a fee of Five Thousand Dollars (\$5,000.00) at the time of acceptance of an application for installation of a principal solar energy system. This fee may be modified from time to time by resolution by the Borough Council. The fee shall supplement the administration of this Ordinance, and shall likewise compensate the Union Dale Codes Enforcement Officer and/or the Building Codes Officers to visit the site and conduct necessary investigations, and shall allow for the Borough of Union Dale to engage the necessary professionals, including attorneys and engineers, to review the applications and specifications for the project.
 - 4.18.2 By submitting an application for a principal solar energy system, the landowner and system owner grant the Borough of Union Dale, as well as all local emergency services, an irrevocable right to enter the deeded property upon which the principal solar energy system is located for the limited purposes of inspecting and regulating the subject system.

§ 5 APPLICATION PROCESS AND VIOLATION

5.1 General Application Standards for Solar Energy Systems

5.1.1 Site plans for all Solar Energy Systems shall be submitted as a Land Development Plan and shall comply with the following standards and requirements as well as all other applicable provisions of this Ordinance.

5.1.2 Plan Requirements The land development plan shall contain the following, in addition to the other applicable provisions of this Ordinance:

- A.** A narrative describing the proposed Solar Energy System, including an overview of the project; the project location; the approximate generating capacity of the Solar Energy Facility; the number, representative types and height of Solar Panels to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
- B.** An affidavit or similar evidence of agreement between the landowner and the Principal System Owner or Operator demonstrating that the Principal System Owner or Operator has the permission of the landowner to apply for necessary permits for construction and operation of the Solar Energy System.
- C.** Identification of the properties on which the proposed Solar Energy Facility will be located, and the properties adjacent to where the Solar Energy Facility will be located.
- D.** A site plan showing the planned general location of each Solar Panel, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Solar Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
- E.** Approval from utility company that current electrical grid can support increased load from proposed unit.
- F.** Documents related to decommissioning, including a schedule for the decommissioning and financing security and/or bond, as required in this Ordinance.
- G.** Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Union Dale Borough and/or the Susquehanna County Planning Commission to ensure compliance Ordinance, the Susquehanna County Subdivision and Land Development Ordinance, the UCC, and the Pennsylvania Municipalities Planning Code.
- H.** Proof of insurance as required pursuant to this Ordinance.
- I.** The fee required pursuant to this Ordinance.

5.2 Violation

- 5.2.1 **Preventive Remedies:** In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed in violation of this Ordinance and/or the Susquehanna County Subdivision and Land Development Ordinance.
- 5.2.2 **Enforcement Remedies** Any landowner, principal system owner, and/or operator who or which has violated the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than Five Hundred Dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the landowner, principal system owner, and/or operator violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
- 5.2.3 The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- 5.2.4 Magisterial District Judges shall have initial jurisdiction in proceedings brought under this Ordinance.

§ 6 SEVERABILITY

If any chapter, section, subsection paragraph, sentence or phrase of this Ordinance is for any reason declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any section or part thereof other than the section or part thereof so declared to be invalid.

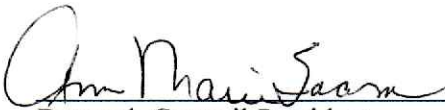
§ 7 REPEALER

Any ordinance, chapter, section, subsection, paragraph, sentence or phrase of any ordinance conflicting with the provisions of this Ordinance shall and the same is hereby repealed to the extent of such conflict.

§ 8 EFFECTIVE DATE

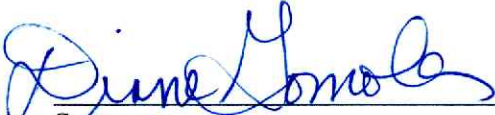
This Ordinance shall become effective five (5) days after enactment.

Enacted and ordained this 17 day of June, 2024 by the Union Dale Borough Council, Susquehanna County, Commonwealth of Pennsylvania, in lawful session, duly assembled.


Borough Council President


Borough Mayor

Attest:


Secretary

