

TOWNSHIP OF COOLSPRING
MERCER COUNTY, PENNSYLVANIA

ORDINANCE #96

AN ORDINANCE AMENDING TABLE OF CONTENTS, SECTION 105, ARTICLE 2, ARTICLE 5 AND ARTICLE 6 OF THE TOWNSHIP OF COOLSPRING, MERCER COUNTY, PENNSYLVANIA, ZONING ORDINANCE #89 ENACTED MAY 6, 2019 TO ADD ENERGY GENERATION SYSTEM AS A PERMITTED ACCESSORY USE AND ENERGY GENERATION FACILITY AS A CONDITIONAL USE, TO REGULATE SAME, AND TO DEFINE TERMS USED THEREIN.

WHEREAS, the Board of Supervisors of Coolspring Township, Mercer County, Pennsylvania desires to amend its Zoning Ordinance to allow for the use of other energy generation capabilities and to provide for the land planning, installation and construction of emerging energy generation systems in Coolspring Township, Mercer County, Pennsylvania, subject to reasonable conditions that will protect the public health, safety and welfare; and

WHEREAS, the Board of Supervisors of Coolspring Township, Mercer County, Pennsylvania, is vested with the authority so to do under, and by virtue of and pursuant to the Second-Class Township Code, 53 P.S. §65101, and by Act 247, the Pennsylvania Municipalities Planning Code; and

WHEREAS, this amendment applies to energy generation facilities or systems to be installed and constructed after the effective date of this ordinance, and all applications for energy generation systems on existing structures or property. Any upgrades, modifications or changes that materially alter the size or placement of an existing energy system shall comply with the provisions of this ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, BY THE Board of Supervisors of Coolspring Township, Mercer County, Pennsylvania, that the Coolspring Township Zoning Ordinance be amended as follows:

ARTICLE 2: DEFINITIONS

The following words, terms and phrases, when used in this ordinance, unless the context indicates otherwise, shall have the following meanings ascribed to them:

ENERGY GENERATION FACILITY: A principal use facility that generates energy from solar, wind, geo-thermal, fossil fuels or other means and through connections to the electric or similar grid primarily produces electrical or similar power for off-site customers. The area of an energy facility shall also include all of the principal and accessory structures, including all of the energy generation equipment, distribution wires, towers, energy storage cells, and all other mechanical equipment to generate, store, and distribute energy.

When the area or footprint covered by energy generation equipment exceeds the area of another use on the site it shall be deemed to be the principal use of the site.

Energy Generation Facilities include facilities designed to operate in parallel with the electric distribution system generating up to or exceeding 500 Mw of energy requiring interconnection as regulated by Pennsylvania Utilities Commission [PUC], AND larger facilities permitted through the regional

transmission organization, PJM [or its subsidiaries] power transmission grid and are subject to all State and Federal Energy Regulatory Commission [FERC] regulations as may apply.

ENERGY GENERATION SYSTEM: An accessory use energy system used to generate energy by solar, wind, geo-thermal, fossil fuel or other means and supply electrical or similar power for primarily on-site use or consumption. Usually, consists of one (1) or more free-standing ground, in-ground, wall or roof mounted energy modules, and necessary energy generation related equipment.

FINANCIAL SECURITY: A form of security including a cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth-chartered lending institution. This shall be for decommissioning of energy generation facilities as in Section 613.11 of this ordinance.

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 purpose of assuring adequate access to direct sunlight for solar energy systems.

SECTION 500: PERMITTED PRINCIPAL USES

ENERGY GENERATION FACILITY (EGF): EGF shall be permitted as a CONDITIONAL USE in the AG, R-1, and R-2 Zoning Districts [see PERMITTED USE CHART]

SECTION 501: ACCESSORY USES

ENERGY GENERATION SYSTEM (EGS): EGS shall be permitted as an ACCESSORY USE added to all zoning districts. [see PERMITTED USE CHART]

SECTION 612: REGULATIONS FOR ENERGY GENERATION SYSTEM (EGS)

612.01 Exemptions

- A. Energy Generation Systems constructed prior to the effective date of this Ordinance are exempt from this ordinance.
- B. Any physical modification to an existing EGS whether or not existing prior to the effective date of this Section that materially alters the size or placement of the EGS shall require compliance with the provisions of this ordinance.

612.02 Where Permitted

EGS shall be permitted as an ACCESSORY USE to any permitted principal use in all zoning districts provided it shall not exceed an area of equal square footage or footprint of all structures for a permitted use on the same property and is intended primarily for on-site use or consumption of the energy generated by the system. The permitted principal use on the site may be agricultural, residential, commercial or industrial.

612.03 Setbacks

An EGS shall comply with the setbacks of the underlying zoning district for principal structures along property lines and 50 feet from future or existing road centerlines. The required setbacks are measured from the centerline along roads or from property line where no road exists to the nearest part of the system. No part or extension of a below or above ground mounted system shall extend into the required setbacks.

612.04 Zoning Permit Requirements

- A. Zoning permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines and setbacks. Permits shall be kept on the premises where the EGS is located.
- B. Routine maintenance or like kind replacements do not require a zoning permit.
- C. The zoning permit shall be revoked if the EGS, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the EGS non-conformity with this Ordinance.

SECTION 613: REGULATIONS FOR ENERGY GENERATION FACILITIES (EGF)

613.01 Exemptions

- A. Energy Generation Facilities constructed prior to the effective date of this section shall not be required to meet the terms and conditions of this ordinance.
- B. Any physical modification to size, location or intended use of an existing EGF, whether or not existing prior to the effective date of this section that alters the EGF shall require approval under this Ordinance.

613.02 Where Permitted

An EGF shall be permitted as a CONDITIONAL USE in the AG, R-1, and R-2 Zoning Districts.

613.03 Compliance with Land Development Regulations and Industry Standards

- A. An EGF Land Development Plan shall be submitted for review and approval according to the provisions of the Mercer County Subdivision and Land Development Ordinance. The Final approved EGF Land Development Plan shall be recorded in the office of the Recorder of Deeds of Mercer County, Pennsylvania.
- B. The EGF site layout, design and installation shall conform to all applicable industry standards, including Solar Energy Industries Association [SEIA] standards, PA Public Utility Commission standards, state and federal regulations and shall comply with the PA Uniform Construction Code as enforced by Coolspring Township, Mercer County, Pennsylvania, including applicable emergency services and life safety requirements.

613.04 Number of Principal Structures and Uses on a Lot.

The EGF structures or use may be permitted as a CONDITIONAL USE that includes multiple structures as a single principal use. Such use may be under single lease area covering a single or multiple properties, under single or multiple ownership.

613.05 Setbacks

- A. The EGF shall comply with NOT LESS THAN the setbacks of the underlying zoning district for principal structures along all roads and 50 feet for all other property lines. The required setbacks of a ground mounted system are measured from the lot line to the nearest extension of the required security fencing for the system.
- B. Setback requirement shall not be applicable to contiguous interior property lines bisecting the EGF Development Area.

613.06 Underground Requirements

Transmission lines or interconnections shall be underground to the extent feasible.

613.07 Display of Facility Information for Emergency Services

The EGF shall contain information displayed (signage) on the fencing or gate to the site to provide 24-hour emergency contact information, including address, telephone number. Emergency information displayed shall include:

- A. Manufacturer's, installer's or operator's identification;
- B. Appropriate warning signs and placards;
- C. Signage required by a federal or state government agency;
- D. Warning/safety signs indicating voltage shall be placed on energy equipment to the extent appropriate.

613.08 Fencing and Buffer Requirements

- A. Fencing – An EGF shall be completely enclosed by a minimum eight (8) foot high security fence with locking gate(s).
- B. Buffering - Any required planting shall be located outside of the required security fencing that surrounds the equipment of the EGF leased or development area. Within the minimum yard setbacks as required, a minimum 25-foot wide buffer area consisting of natural and undisturbed vegetation shall be preserved or added around the perimeter of the EGF Fenced Area.
- C. Vegetation Preservation - Except in connection with installation and operation of the EGF, access driveways, utilities and stormwater management facilities, existing onsite vegetation shall be preserved to the maximum extent practicable.

613.09 Stormwater Management Requirements

A stormwater management plan shall be submitted to Coolspring Township along with the preliminary Land Development Plan. Prior to final plan approval by the Mercer County Planning Commission, the land owner or developer shall show compliance with the Coolspring Township Stormwater Management Ordinance. Adequate stormwater facilities shall be installed within the EGF land development as required by the applicable ordinance(s).

613.10 Solar Easements

Where an EGF land development involves the use of solar energy 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. Any such easement must be shown on the Final Plan for recording in accordance with the Mercer County Subdivision and Land Development Ordinance. If required, an EGF must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

613.11 Decommissioning

- A. The EGF owner shall, at the request of Coolspring Township, Mercer County, Pennsylvania, provide information concerning the amount of energy generated by the Energy Generation Facility in the past 12 months.
- B. The EGF owner is required to notify Coolspring Township, Mercer County, Pennsylvania immediately upon cessation or abandonment of the operation. The EGF shall be presumed to be discontinued or abandoned if no power is generated by such system for a period of twelve (12) continuous months. Upon notification or determination by the Township that the EGF operation is ceased or abandoned, the decommissioning and restoration process of the associated properties shall be initiated in accordance with this Ordinance and other Federal or State regulations.
- C. The EGF owner shall then have twelve (12) months in which to dismantle and remove the EGF including all energy related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original, without re-introduction of invasive species. If

- the owner fails to dismantle and/or remove the EGF and restore the land within the established time frames, Coolspring Township, Mercer County, Pennsylvania, may complete the decommissioning and land restoration at the owner's expense to include Court costs and reasonable attorney's fees.
- D. At the time of issuance of the permit for the construction of the EGF, the owner shall engage an independent professional engineer licensed in the Commonwealth of Pennsylvania to conduct an appraisal to determine the approximate cost of decommissioning and dismantling the fully constructed EGF and removing the above-ground and below-ground (to the depth of not less than three (3) feet below-ground but in all cases at least to the depth of plow line) components of the solar energy system from the property (the "Decommissioning Costs") and to determine the cost of restoring and reclaiming the property under the assumption that the above-ground components of the EGF have been removed from the property ("Restoration Costs"). The EGF owner shall be responsible for all costs and expenses of the appraisal and the decision of such engineer shall be binding and conclusive.
 - E. Prior to the commencement of construction, the EGF owner shall obtain and deliver to Coolspring Township an irrevocable letter of credit, surety of performance bond issued by a financial institution of recognized financial standing (the "Security"), that is sufficient to cover an amount equal to not less than one hundred and ten percent (110%) of the amount that the Decommissioning Costs and the Restoration Costs exceed the projected salvage value of the EGF at the end of the projected Operations Date (as determined by the engineer).
 - F. Coolspring Township shall be named as the sole payee, obligee, or beneficiary under the Security. Once the Security has been issued and delivered to Coolspring Township, the Security shall not lapse until the Restoration Activities are completed. Not less than thirty (30) days prior to any expiration of the Security, evidence of the renewal of such Security shall be provided to Coolspring Township. The EGF owner shall provide evidence of such Security, and the Security shall contain an agreement by the institutional provider that the Security will not be cancelled, or the Security changed, without at least thirty (30) days prior written notice to Coolspring Township. In no event shall the Security be cancelled or changed by the EGF owner without the written consent of Coolspring Township.
 - G. The amount of the Security shall be reviewed and reset immediately after completion of construction based on a new estimate by a professional engineer, licensed in the Commonwealth of Pennsylvania, and then updated every five (5) years thereafter until the site is discontinued and is fully restored to the conditions as prior to construction and use of the facility.

613.12 Permit Requirements

- A. Zoning/building permit applications shall be in compliance with Section 1001, Zoning Permits and Certificate of Use, of this Ordinance and shall be accompanied by drawings showing the location of the EGF on the property, including property lines.
- B. The EGF shall comply with Mercer County Subdivision and Land Development Ordinance requirements. The installation of EGF shall be in compliance with all applicable permit requirements, codes, and regulations.
- C. The EGF owner and/or operator shall repair, maintain and replace the EGF and related energy equipment during the term of the permit in a manner consistent with industry standards as needed to keep the EGF in good repair and operating condition.
- D. Routine maintenance or like-kind replacements do not require a permit.

AMENDMENT OF TABLE OF CONTENTS.

The Table of Contents of the Coolspring Township Zoning Ordinance shall be amended to properly reflect the changes in definitions, section headings, pagination, and all other terminology added, removed, or amended in this Ordinance.

CONFIRMATION AND RATIFICATION

Article 2, Article 5 and Article 6 of the Coolspring Township Zoning Ordinance, Mercer County, Pennsylvania are hereby ratified and confirmed except insofar as the within Amendment modifies the same.

SAVING CLAUSE

The provisions of the Coolspring Township Code of Ordinances, so far as they are the same as those Ordinances and regulations enforced immediately prior to the adoption of this Ordinance, are intended as a continuation of such Ordinances and Regulations and not as a new enactment. The provisions of this Ordinance shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations except as otherwise provided by law.

SEVERABILITY OF PARTS OF Ordinance.

It is hereby declared to be the intention of the Board of Supervisors that the parts, sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any part, section, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional, illegal, or otherwise invalid by the judgment or decree of a Court of competent jurisdiction, that invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

EFFECTIVE DATE

This ordinance shall become effective five (5) days after enactment as provided by law.

ENACTED AND ORDAINED by the Board of Supervisors of the Township of Coolspring, Mercer County, Pennsylvania this 4th day of December, 2023.

BOARD OF SUPERVISORS, COOLSPRING TOWNSHIP,
MERCER COUNTY, PENNSYLVANIA:

Corwin L. Masson

Corwin L. Masson, Chairman

Dale A. Bestwick

Dale A. Bestwick, Supervisor

Matthew E. Hackett

Matthew E. Hackett, Supervisor



ATTEST:

Terri E. Ligo
Terri E. Ligo, Secretary