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November 21, 2024

Ms. Lisa Holm
Mercer County Regional Planning Commission
2491 Highland Road
Hermitage, Pennsylvania 16148

**Re: Ordinance No. 1 of 2025
NEW VERNON TOWNSHIP**

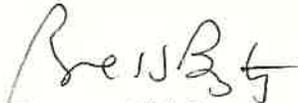
Dear Ms. Holm:

A public hearing on the proposed Ordinance No. 1 of 2025, a copy of which is enclosed, will be held on Monday, January 6, 2025, at 5:30 p.m. Enclosed is a copy of that notice.

If you have any questions, please feel free to contact my office.

Very truly yours,

BOGATY LAW OFFICE, P.C.


Raymond H. Bogaty

RHB/rl
Enclosure

NOTICE

NOTICE IS HEREBY GIVEN by the Board of Supervisors of New Vernon Township, Mercer County, Pennsylvania, that they will conduct a public hearing on the adoption of the Ordinance No. 1 of 2025 on January 6, 2025 p.m. at 5:30 p.m. to be held at the New Vernon Township Building, 242 Sheakleyville Road, Clarks Mills, Pennsylvania. A copy of the full text of the Ordinance No. 1 of 2025 is available for inspection by contacting the office of the Secretary of New Vernon Township, Mercer County, Pennsylvania, at 242 Sheakleyville Road, Clarks Mills, Pennsylvania, during regular business hours.

The Ordinance is titled: AN ORDINANCE OF THE TOWNSHIP OF NEW VERNON, MERCER COUNTY, PENNSYLVANIA, IN ACCORDANCE WITH THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE (“MPC”), AMENDING PORTIONS OF THE NEW VERNON TOWNSHIP ZONING ORDINANCE BY PROVIDING FOR ADDITIONAL DEFINITIONS IN ARTICLE XIX, AMENDING ARTICLE VI TO ADD SECTION 601.3 USE BY SPECIAL EXCEPTION FOR NEW USES BY SPECIAL EXCEPTION IN THE INDUSTRIAL ZONING DISTRICT (ENERGY GENERATION FACILITY) AND FOR NEW USES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS (ENERGY GENERATION SYSTEM) IN ARTICLE VIII.

Kathleen Elder, Secretary
New Vernon Township
242 Sheakleyville Road
Clarks Mills, PA 16114
724-253-2868

**NEW VERNON TOWNSHIP
MERCER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1 of 2025

AN ORDINANCE OF THE TOWNSHIP OF NEW VERNON, MERCER COUNTY, PENNSYLVANIA, IN ACCORDANCE WITH THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE (“MPC”), AMENDING PORTIONS OF THE NEW VERNON TOWNSHIP ZONING ORDINANCE BY PROVIDING FOR ADDITIONAL DEFINITIONS IN ARTICLE XIX, AMENDING ARTICLE VI TO ADD SECTION 601.3 USE BY SPECIAL EXCEPTION FOR NEW USES BY SPECIAL EXCEPTION IN THE INDUSTRIAL ZONING DISTRICT (ENERGY GENERATION FACILITY) AND FOR NEW USES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS (ENERGY GENERATION SYSTEM) IN ARTICLE VIII.

WHEREAS, New Vernon Township (“Township”) encourages the reasonable development of all legal uses of property for the benefit of Township residents and guests; and

WHEREAS, in furtherance of its land use and responsibilities, the Township adopted its current Zoning Ordinance in 1995; and

WHEREAS, from time-to-time additional uses arise that were not envisioned by the original ordinance; and

WHEREAS, additional energy methods are an increasingly prevalent use of property which is to be encouraged in the appropriate zoning districts to protect the health, safety, welfare, and essential character of the community; and,

WHEREAS, the Board of Supervisors desires to permit various energy facilities in appropriate locations and provide appropriate regulations.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF NEW VERNON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY AND WITH THE AUTHORITY OF SAME, AS FOLLOWS:

SECTION 1. AMENDMENT OF ARTICLE XIX ZONING DEFINITIONS. Article XIX, shall be amended to add additional definitions Section 1901 Definitions as follows:

Energy Generation Facility (EGF) – 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 energy requiring interconnection as regulated by the Pennsylvania Utilities Commission (PUC), AND larger facilities permitted through the regional transmission organization, PJM power transmission grid. All are subject to all State and Federal Energy Regulatory Commission (FERC) regulations as apply.

Energy Generation System (EGS) – 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.

SECTION 2. AMENDMENT OF ARTICLE VI. Article VI is hereby amended to add Section 601.3 which shall read as follows:

Section 601.3 - Uses permitted by Special Exception – The following use shall be permitted by Special Exception in the Industrial District (IS), utilizing the specific criteria provided herein:

Energy Generation Facility (EGF). An Energy Generation Facility shall be a use permitted by Special Exception and considered to be a single structure, subject to the following requirements:

- A. Where the installation of the facility constitutes a land development, all provisions of the Mercer County SALDO are applicable and shall be met.
- B. Preliminary and final land development approval is required for the construction of any EGF when it is the principal use on a site or lot.
- C. To the Extent applicable, all facilities shall comply with the Pennsylvania Uniform Construction Code and the regulations adopted by the Pennsylvania Department of Labor and Industry
- D. All electrical components of facilities shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
- E. Facilities shall not display advertising, except for reasonable identification of the facility manufacturer, name of site manager and emergency contact information
- F. The following project information shall be submitted to the Township for every proposed EGF:
 - 1. Project narrative including the following: on overview of the project including but not limited to anticipated timeline for construction and production, project location, the approximate generating capacity, the

number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions and respective manufacturers, and description of any ancillary facilities to the EGF.

2. An affidavit or similar evidence of agreement between the property owner and the EGF owner or operator demonstrating permission to apply for necessary permits for construction and operation of an EGF.
 3. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.
 4. A site plan showing the planned location of each proposed EGF, property lines, setback lines, access roads and the location of any ancillary structure, including equipment, cabling, building, structure, transmission lines and substations.
 5. A viewshed impact analysis by a certified engineer consisting of only sufficient information to identify where buffer screening is necessary to hide views of the facility.
- G. Solar energy panels shall not exceed a maximum height of 15 feet, measured from ground level to the tallest point on the facility.
- H. All energy facilities and any accessory equipment shall comply with all area, dimensional and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that apply, including buffering and landscaping, except as provided in this section, if more restrictive.
- I. Buffers and screening shall be provided as follows:
1. A minimum 25-foot-wide buffer area consisting of natural and undisturbed vegetation shall be preserved or provided around the perimeter of the site on the same lot as the EGF.
 2. Secure perimeter fencing shall be installed around the energy facility. The fencing shall not be constructed within any required landscape buffer or setback. The fencing shall be chain link construction at least eight (8) feet in height with locking gates.
 3. The signage ON THE FACILITY OR FENCE shall include:
 - A. CURRENT emergency contact information, including address and telephone number;
 - B. Manufacturer's, installer's or operator's identification;
 - C. Appropriate warning signs and placards;
 - D. Signage required by a federal or state government agency;

- E. Warning/safety signs indicating voltage shall be placed on energy equipment to the extent appropriate.
 - 4. All access lanes through the fenced area shall be a minimum of fifteen (15) feet wide in all such access lanes to provide clear access through the facility for emergency vehicles including but not limited to brush trucks and ambulances and must provide secondary gates to achieve the needed access to areas limited by fencing.
 - 5. The access lanes and fencing provided herein shall be shown on all final plans, both for recording and to share with local fire departments and emergency management departments.
- J. A decommissioning plan shall be submitted as part of the zoning permit application for such system and shall include, but not be limited to, the following:
- 1. A schedule and methods for the removal of such system;
 - 2. A plan for restoring the site to a condition similar to its conditions that existed immediately prior to the development of such system, including grading and vegetative stabilization;
 - 3. A performance bond, decommissioning trust or escrow account, or irrevocable letter of credit or a financial guarantee in an amount to be based upon the estimated cost of the decommissioning to insure completion of the decommissioning plan hereinafter referred to as “Security”; and
 - 4. Any obsolete or unused EGF and appurtenant structures shall be removed from the property within six (6) months of abandonment or decommissioning.
 - 5. The EGF owner is required to notify New Vernon 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 six (6) 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.
 - 6. 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 who is acceptable to the Township 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 EGF from the property (the “Decommissioning Costs”) and to determine the costs 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.

7. Prior to the commencement of instruction, New Vernon Township shall be named as the sole payee, obligee, or beneficiary under the Security. Once the Security has been issued and delivered to New Vernon Township, the Security shall not lapse until the restoration activities are completed. Not less than sixty (60) days prior to any expiration of the Security, evidence of the renewal of such Security shall be provided to New Vernon 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 sixty (60) days prior written notice to New Vernon Township. In no event shall the Security be cancelled or changed by the EGF owner without the written consent of New Vernon Township. In any event, EGF owner shall always keep Security, as is provided herein, in place containing the determined amount.
8. The amount of the Security shall be reviewed and reset immediately after completion of construction based on a new estimate by a professional engineer acceptable to the Township, 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. The cost of the estimate shall be paid by owner.

SECTION 3. Article VIII shall be designated as Additional Provisions and is added to provide Section 801 as follows:

Section 801 - Energy Generation System (EGS) – Energy generation systems are permitted in all zoning districts as an accessory use to any lawfully permitted principal use or accessory use on the same lot or parcel upon compliance with the following requirements:

- A. The energy system must be constructed to comply with the Pennsylvania Uniform Construction Code (UCC) Act of 1999, as amended, and any regulations adopted by the Pennsylvania Department of Labor and Industry as they relate to the UCC, except where an applicable industry standard has been approved by the Pennsylvania Department of Labor and Industry under its regulatory authority.
- B. All wiring must comply with applicable electrical codes and specifications.
- C. The energy system must be constructed to comply with any applicable fire safety codes.

D. The energy system shall not be placed in the established front yards and shall be subject to the same side and rear yard setbacks as other accessory structures. The required setbacks are measured from the lot line to the nearest part of the system. No part of the ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment of EGS equipment or parts.

E. Notwithstanding the height limitations of the zoning district:

1. Any height limitations shall comply with all existing building codes for the structures that may be required after compliance with existing zoning and land development ordinances or laws All soil analysis that may be required shall be part of any required stormwater plan or other permits that are engineering based.
2. For a building-mounted system installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
3. For a building-mounted system installed on a flat roof, the highest point of the system shall not exceed six feet above the roof to which it is attached.
4. Ground-mounted systems may not exceed 10 feet in height, measured from the tallest part of the structure when installed.

F. The footprint of the ground mounted energy generation system shall not exceed the square footage of permitted buildings on the property where the energy is to be used but shall never exceed twenty-five percent (25%) of the lot area where it is to be placed.

G. Screening and Visibility

1. Building-mounted systems mounted on a sloped roof shall not be required to be screened
2. Building-mounted systems mounted on a flat roof shall not be visible from the public right-of-way within a 50-foot radius of the property, at a level of five feet from the ground, in a similar manner as to any other rooftop HVAC or mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the system is not visible from the public right-of-way within a 50-foot radius at a level of five feet from the ground.
3. If a building-mounted system is to be installed on any building or structure that is nonconforming because it violates the height or setback restrictions of the zoning district in which it is located, the building mounted system does not extend above the peak or highest point of the roof to which it is mounted.

H. Vacation, abandonment and/or decommissioning. The owner shall remove all energy systems, solar panels, and support structures, buildings, cabling, electrical components, roads and any other associated equipment within ninety (90) days of cessation of abandonment of the use.

SECTION 4. AMENDMENT OF TABLE OF CONTENTS. The Table of Contents of the New Vernon 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.

SECTION 5. SEVERABILITY. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held unconstitutional, void or otherwise unenforceable, such shall not affect the validity of any of the remaining provisions of said Ordinance.

SECTION 6. EFFECTIVE DATE. The provisions of this Ordinance shall become effective in five (5) days.

ORDAINED AND ENACTED THIS _____ day of _____, 20____, at a regular meeting of the New Vernon Township Board of Supervisors.

**BOARD OF SUPERVISORS OF
NEW VERNON TOWNSHIP**

ATTEST:

Secretary, New Vernon Township

