

**CERTIFIED TO BE A TRUE AND CORRECT COPY**

**ORDINANCE NO. 1 -2025**

**AN ORDINANCE OF THE TOWNSHIP OF JACKSON AMENDING THE TOWNSHIP ZONING ORDINANCE LOCATED IN THE TOWNSHIP’S CODIFIED ORDINANCE BOOK AT CHAPTER 27. THIS IS AN ORDINANCE WHICH SHALL AMEND PART 27 OF CHAPTER 27 TO PROVIDE FOR THE REGULATION OF SOLAR ENERGY FACILITIES WITHIN THE TOWNSHIP OF JACKSON WHICH PROVIDE AND CREATE ELECTRICAL ENERGY OR THERMAL POWER SUPPLIED PRIMARILY FOR OFFSITE USE. THIS ORDINANCE SHALL PERMIT THE ESTABLISHMENT OF SUCH SEFs IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THE ORDINANCE AFTER A SPECIAL EXCEPTION IS GRANTED BY THE JACKSON TOWNSHIP ZONING HEARING BOARD.**

**WHEREAS**, Jackson Township has previously adopted a Zoning Ordinance located in the Jackson Township Codified Ordinance at Chapter 27.

**WHEREAS**, the Jackson Township Zoning Ordinance regulates Environmental Improvements and Energy Conservation Rights at Chapter 27, Part 27.

**WHEREAS**, the Jackson Township Board of Supervisors desires to amend the Jackson Township Zoning Ordinance to address solar energy facilities as a principal use within the Township.

AND NOW, on the \_\_\_\_ day of \_\_\_\_\_, 2024, BE AND IT HEREBY IS ORDAINED AND ENACTED by the Jackson Township Board of Supervisors, as follows:

- 1. The Jackson Township Codified Ordinance shall be amended at Chapter 27, Part 27 to provide a new Section 27-2706 which shall regulate solar energy facilities constructed as a principal use and supplying energy primarily for offsite use .
- 2. The current Chapter 27, Part 27, Section 27-2706 which provides for *Maintenance and Protection Assurances* shall now become Section 27-2707.
- 3. Chapter 27, Part 27, Sec. 27-702-Definitions- shall be amended to include the following additional definitions:
  - A. **AGRIVOLTAICS**: The co-development of the same area of land for both solar photovoltaic power and “normal” farming operations as defined by P.L. 454, #133 (1982) known as the Protection of Agricultural Operations from Nuisance Suits and Ordinances Act, 3 P.S. 951 et. seq., or any successor laws.
  - B. **SUPERVISORS, BOARD OF SUPERVISORS**: The elected Board of Supervisors of Jackson Township, Lebanon County.
  - C. **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 in the amount of 110% of the total net decommissioning costs and in a form satisfactory to the Township Solicitor.

- D. **RIB ROAD:** A stabilized access drive flowing from the spine road between individual rows of solar panels to the perimeter of the solar array.
- E. **SOLAR ARRAY:** A system or a group of solar panels connected together.
- F. **SOLAR ARRAY CONNECTION:** The low voltage electric lines which connect solar related equipment.
- G. **SOLAR EASEMENT:** A solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by on or behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.
- H. **SOLAR ENERGY FACILITY (SEF):** An area of land used for a solar collection system principally to capture solar energy, which is converted to electrical energy or thermal power and supplied primarily for offsite use. SEFs consist of one (1) or more freestanding ground, or roof/wall mounted solar collector devices, solar related equipment and other accessory structures and buildings, including light reflectors, concentrators, heat exchanges, substations, electrical infrastructure, transmission lines, fences, and other appurtenant structures.
- I. **SOLAR ENERGY PROJECT:** A grouping of two (2) or more SEFs which are held by owner or leased to a common lessor, and which are part of a single solar energy production development project.
- J. **SOLAR ENERGY PROJECT OWNER:** The individual, group, or entity responsible for the permitting, construction and operation of SEFs or solar energy projects.
- K. **SOLAR FACILITY CONNECTION:** The high voltage electric conveyance lines or other implements which connect a SEF to the solar project connection.
- L. **SOLAR PROJECT CONNECTION:** The electric conveyance lines which connect a SEF to the high voltage electric interconnection grid.
- M. **SOLAR PANEL:** That part or portion of a solar energy system containing one (1) or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, water heating, and/or electricity.
- N. **SOLAR RELATED EQUIPMENT:** Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, other types of energy storage mounting brackets, framing and foundations or other structures used for or intended to be used for collection of solar energy.
- O. **SPINE DRIVE:** A paved or gravel access road on the inside or the inside perimeter of the solar array which runs through the center of the solar array.

4. Chapter 27, Part 27, Section 27-2706 shall read as follows: An ordinance regulating Solar Energy Facilities (SEFs) which shall be permitted by special exception in the Agricultural (A) and Industrial (I) zoning districts.
  - A. SEFs shall be defined as stated above.
  - B. Upon approval by the Zoning Hearing Board, SEFs shall be permitted as a special exception provided the use complies with the specific criteria listed herein and any other parts governing special exceptions.
5. Specific Criteria applicable to Roof and Wall Mounted SEFs.

For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code including that the roof or wall can hold the load imposed upon the structure. The total height of a building with a roof and/or wall mounted system shall not exceed by more than three (3) feet above the minimum building height specified for principal or accessory buildings within the applicable zoning district. Roof and wall mounted principal solar energy facilities are permitted in any zoning district where the building upon which they will be mounted is a permitted use.

6. Specific Criteria applicable to Ground Mounted SEFs.
  - A. Minimum Lot Size.
    - 1) A SEF shall require a minimum lot size of 30 acres.
    - 2) The SEF's development area is equal to the total acres of land subject to lease by the SEF developer. Where the area of land subject to the lease is greater than 70% of the parcel, the entire parcel will be the SEF's development area.
  - B. Setbacks.
    - 1) A SEF shall be a minimum of 350 feet from any zoning district boundary line except for the line between the Agricultural and Industrial zoning districts.
    - 2) A SEF shall be a minimum of 350 feet from any property line of an existing residential or public use (i.e. park, school, government building, etc.).
    - 3) A SEF shall not be located within 350 feet of a public or private road right-of-way, nor within 100 feet of all other property lines.
  - C. Height.

All ground mounted solar panels shall comply with a maximum 15-foot height requirement. All other SEF components should comply with the underlying district maximum height requirement. There are no maximum height restrictions for structures that support solar facility connections and solar project connections.

D. Soil Restrictions.

A maximum of 50% of Class I, II and III agricultural soils are permitted within the SEF's development area, unless the area will be devoted to agrivoltaics activities, in which case 75% of Class I, II and III soils may be included in the SEF's development area. For each parcel in which a SEF or a component of a SEF is proposed, a map shall be provided by the applicant at the time of application for the special exception detailing the SEF development area, the constrained area, the Class I, II and III agricultural soils and the portion of the SEF development area that may be devoted to solar arrays. Solar arrays shall only be placed within that area of any lot that lies within the portion of the SEF development area that may be devoted to solar arrays.

E. Access Drives.

- 1) A minimum 14-foot-wide paved or gravel access drive shall be provided from a public road to the SEF site that is maintained year-round in a dust-free condition. The access drive shall be paved between the paved edge of the public road and right-of-way boundary. Design of the access drive shall comply with the requirements of the Jackson Township Subdivision and Land Development Ordinance.
- 2) A paved or gravel access spine drive of sufficient width for the intended use shall be provided on the inside perimeter .
- 3) Stabilized access drives of sufficient width shall be provided from the spine drive between rows of solar panels to allow access for maintenance and emergency vehicles. A turn around shall be provided at the end of each access drive sufficient for a vehicle or maintenance equipment to maneuver. Vegetative cover maintained at six (6) inches or less in height shall be considered an acceptable stabilized surface.

F. Restrictions applicable to Environmental Resources, Historic and Cultural Resources, Stormwater Facilities, and Easements.

- 1) No SEF shall be located less than 1,000 feet from any Important Bird Area (IBA) or migration corridor, as identified by the Audubon Mid-Atlantic.
- 2) No SEF shall be located within 1,000 feet of public water supply sources.
- 3) No SEF shall be located within 500 feet of a historic or cultural resource as identified by the Pennsylvania Historic Museum Commission.
- 4) No SEF shall be located within the regulated floodway as identified on the applicable Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

- 5) No SEF shall be within 50 feet of the top of bank of any stream, river, drainage corridor.
- 6) No SEF shall be located within 500 feet of a wetland as identified on the National Wetland Inventory or within 20 feet of an otherwise delineated wetland.
- 7) No SEF shall be located within a recorded easement.
- 8) No SEF shall be located within a stormwater management or conveyance area.

#### G. Security.

All SEFs shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate. A down light activated by a motion sensor shall be provided at each gate. A lock-box including the key for the gate shall be provided at the gate for emergency situations. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence at 500 foot intervals surrounding the SEF informing individuals of potential voltage hazards.

#### H. Landscaping.

- 1) Existing vegetation on and around the site shall be preserved to the greatest extent possible without restricting Solar Access.
- 2) A SEF shall require an evergreen dense screen planting, as defined in § 27-2702, shall be installed around the entire perimeter of the SEF installation, except where the retention of existing trees area may constitute the required dense screen planting, or where the SEF cannot be viewed from a public roadway or residential use. Dead plantings shall be replaced in a regular manner.
- 3) The dense screen planting shall be installed along the exterior side of the fencing.

### 7. Specific Criterial applicable to all SEFs.

#### A. Solar Access.

An applicant who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the office of the Lebanon County Recorder of Deeds.

#### B. Required Parking.

If the SEF site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to 20% of the required spaces based on the number of employees, but not less than two parking spaces.

8. Special Exception Documentation.

A. The following documentation shall be included with the application for special exception:

- 1) The contact information for the owner and operator of the SEF as well as the owner of the property on which the SEF is to be located.
- 2) A copy of the deed(s) for the subject tract(s).
- 3) A copy of the lease or recorded document with the landowner(s) if the applicant does not own the land for the proposed SEF. An affidavit from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
- 4) Identification and location of the properties on which the proposed SEF will be located.
- 5) The proposed number, representative types, and height of each component of the system to be constructed; including its manufacturer and model, product specifications including total rated capacity, and a description of any ancillary facilities.
- 6) Engineering data, where applicable, concerning construction of the SEF and its components.
- 7) Anticipated construction schedule.
- 8) An operation and maintenance plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used to conduct maintenance, if applicable.
- 9) Documented compliance with applicable local, state and federal regulations including but not limited to all applicable safety, construction, environmental, electrical and communication requirements.
- 10) Proof of applicant's liability insurance.
- 11) Signature of the applicant on the application for a special exception.
- 12) An Environmental Impact Study assessing any potential impacts on the natural environment, including but not limited to, assessing the potential impact on ecological resources (plants, vertebrates, invertebrates, ecological communities, and geologic features). The Environmental Impact Study shall include a Pennsylvania Natural Diversity Inventory (PNDI) search receipt. Any potential impacts identified in the PNDI search shall be addressed.

- 13) A statement indicating what hazardous materials will be used and stored on the site and evidence that adequate measures will be undertaken to reduce the risk of accidents caused by the hazardous materials.
- 14) Evidence that the proposed SEF is essential or desirable to the public convenience and/or not detrimental or injurious to the public health or safety or to the character of the surrounding neighborhood.
- 15) Evidence that the proposed SEF will not be reasonably detrimental to the economic welfare of the Township and/or that it will not create excessive public cost for public services by finding that it will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, drainage structures, refuse disposal, water and sewers, or that the applicant shall provide such service or facilities.
- 16) Evidence that the SEF layout, design, and installation shall conform to good industry practice. "Good industry practice" shall mean the practices, methods, standards and acts engaged in or approved by a significant portion of the solar power industry for similar facilities and similar geographic areas that are similar in size and complexity as the same may change from time to time, at a particular time, and the exercise of reasonable professional judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired to result in a manner consistent with applicable law, regulation, codes, good business practices, reliability, safety, environmental protection, economy, expedition and shall comply with the Pennsylvania Uniform Construction Code and with all other applicable fire and safety requirements.
- 17) Evidence that the SEF is designed such that concentrated solar radiation or glare will not project onto nearby structures or roadways. The applicant has the burden of proving that any glare produced will not have significant adverse impact on neighboring or adjacent uses either through sighting or through mitigation. A completed glare study is required to demonstrate that reflective glare is not directed towards, nor upon any adjacent properties as well as any adjacent street rights-of-way. The glare study shall be paid for by the applicant and the applicant shall reimburse the township for any all costs and fees incurred by township in the review of such study including any engineering and attorney fees. The glare study shall include the following:
  - a) Angle of the SEF's panels, arrays, cells, etc.
  - b) A diagram showing the maximum and minimum angles of reflective glare from the SEF's panels, arrays, cells, etc. and the relationship of that glare to adjacent properties, structures, and rights-of-way.
  - c) A mitigation plan that limits or eliminates reflective glare on adjacent properties, structures, and rights-of-way.

- 18) Trip generation data, including the amount of traffic expected to be generated by the SEF for the AM and PM peak hours and total daily trips.
- 19) A transportation plan that shows all roadways that will be utilized to access the SEF.
- 20) A Noise Management Plan that addresses noise produced during construction and operation of the SEF.
- 21) For ground mounted SEFs, a site plan displaying the following information is required:
  - a) Proposed project name or identifying title.
  - b) Names, addresses, phone numbers, and email addresses of the landowner, applicant (if different from landowner), and the firm that prepared the plan.
  - c) Date of plan preparation.
  - d) North arrow, graphic scale, and written scale.
  - e) Existing property features, including, but not limited to, property lines with bearings and distances, total parcel size, land use, zoning district, elevation contours at maximum two-foot intervals, setback lines, rights-of-way, easements, roads, driveways, curbs, sidewalks, nonmotorized pathways, utilities, storm sewers and culverts, stormwater management facilities, on-lot sewage disposal systems, wells, wetlands, streams, ponds, quarries, rock outcroppings, large trees or tree masses, and all structures.
  - f) The names, addresses, tax parcel numbers, and deed book and page numbers of adjoining properties as well as the location of all structures and utilities within 300 feet of the property.
  - g) Location and dimensions of all proposed improvements associated with the SEF, including, but not limited to, buildings, structures, solar arrays, inverters, charge controllers, batteries, racking, ancillary equipment, underground utilities, security fencing, access roads, electrical sub stations, and other above ground structures and utilities.

## 9. Zoning Permit Requirements.

Following approval of a special exception by the Zoning Hearing Board, but prior to the issuance of a zoning permit, the following requirements shall be addressed to the satisfaction of the Zoning Officer:

### A. Land Development Plan Approval.



- 1) All applications for a ground mounted SEF shall be considered a major land development and shall meet the requirements of this Ordinance and the Jackson Township Subdivision and Land Development Ordinance (SLDO).
- 2) No permit will be issued, nor can any construction begin until the applicant has obtained approval of a Final Land Development Plan and recorded such plan with the Lebanon County Recorder of Deeds.

B. Permit Modifications.

Any physical modification to an existing and permitted SEF that materially alters the equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

C. Use of Public Roads.

- 1) The applicant shall identify all public roads to be used within the Township to transfer equipment and parts for construction, operation, or maintenance of the SEF.
- 2) The Township's Engineer or a qualified third-party engineer hired by the Township and paid for by the applicant shall document conditions of Township roads prior to construction, if applicable. The engineer shall document road conditions again within 30 days after construction is complete or as weather permits.
- 3) Any damage to Township roads caused by the applicant, or its contractors, shall be promptly repaired at the applicant's expense.
- 4) The Township may require the applicant to enter into a Road Use Agreement and provide financial security to guarantee repairs and restoration of Township road(s) in compliance with state regulations.

D. Licenses.

Other Regulations. The applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection (DEP), the Pennsylvania Public Utility Commission, and other agencies have been obtained.

E. Decommissioning Plan and Financial Security.

- 1) The applicant shall submit a decommissioning plan that will be carried out at the end of the SEF's useful life and shall describe any agreements with the landowner(s) regarding equipment removal upon termination of the lease. The decommissioning plan shall include a written description of the anticipated life of the SEF; estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal

and restoration procedures and schedules that will be employed if the SEF becomes inoperative or non-functional.

- 2) The applicant shall be required to post financial security with the Township as described in § 27-2706.10.G(6).

F. Liability Insurance.

The applicant for a SEF shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000.00 per occurrence and property damage coverage in the minimum amount of \$1,000,000.00 per occurrence covering the SEF. The applicant shall provide the Township with proof of annual renewal prior to expiration.

G. Emergency Service Provider Coordination.

- 1) The applicant shall provide an emergency response plan developed in coordination with local emergency service providers and the Lebanon County Department of Emergency Services.
- 2) The applicant shall provide a fire control plan developed in coordination with the applicable local fire department, including details about any fire suppression system proposed for the SEF.
- 3) The foregoing plans shall be subject to review by the fire chiefs primarily serving the Township, and any permit for the use shall be contingent upon receipt and review by township of an acceptable emergency response plan and fire control plan. Said plans shall provide for initial training of local first responders re the plans and response to any emergencies at the site and said training shall be repeated every five years thereafter. All emergency response training and any costs associated therewith shall be paid by the applicant and/or permitholder.

- H. Evidence that the utility company has been informed of the applicant's intent to install an interconnected, customer-owner generator or such device necessary for producing energy and delivering the same to the grid and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

10. Additional Requirements.

A. Solar Array Connections.

DC voltage solar array connections may be located above ground. AC solar facility connections should be located above ground where the applicant can demonstrate to the satisfaction of the Zoning Officer that the overall environmental impacts would support above ground location. Solar project connections may be located above ground.

B. Installation.

- 1) To the extent applicable, the SEF shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and the regulations adopted by the Pennsylvania Department of Labor and Industry.
- 2) The design of the SEF shall conform to all applicable industry standards.
- 3) SEFs as defined in this Section shall use public rights-of-way or established utility corridors when reasonable. While a utility corridor may be used for more than one utility of purpose, each utility or use should be negotiated with the landowner as a separate easement, right-of-way, or other agreement between the landowner and any other party and all owner of interest in the property. Nothing in this paragraph is intended to conflict with the right of eminent domain.
- 4) The construction and installation of SEFs may necessitate the importation of fill material which may result in the displacement of native material. The incidental generation of earthen spills resulting from the construction and/or installment of a SEF and the removal of said material from the development site shall meet all local and state requirements.

C. Stormwater Management.

- 1) Stormwater runoff from a SEF shall be managed in accordance with the Jackson Township Stormwater Management Ordinance except as noted below.
- 2) Where solar panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a disconnected impervious area (DIA) and shall have a runoff coefficient or curve number that is appropriate for the type of proposed vegetative ground cover below the panel. The horizontal area of the panel can only be considered a DIA if the following conditions apply:
  - a) Where natural vegetative cover is preserved and/or restored utilizing low impact construction techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and re-vegetating and re-foresting disturbed areas using native species.
  - b) Vegetative cover shall be a minimum uniform 70% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.
  - c) For panels located on slopes of 0 to 15%, a minimum four (4) inches height of vegetative cover shall be maintained.

- d) Vegetative areas shall not be subject to chemical fertilization or herbicide pesticide application, except for those applications necessary to establish the vegetative cover or to prevent invasive species and in accordance with the approved erosion and sedimentation plan. The horizontal area of any solar panel or solar array that cannot meet all the conditions to be considered DIA shall be treated as impervious area in the calculation of post-development runoff. Use of gravel would not allow the horizontal area of the solar panel or solar array to be considered DIA. All impervious areas associated with the SEF such as roadways and support buildings cannot be considered a DIA and shall follow normal protocols when performing the post-construction stormwater management analysis.

#### D. Safety Requirements.

- 1) If the SEF is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation set forth in the public utility's current service regulations applicable to solar power generation facilities, and the connection shall be inspected by the appropriate public utility.
- 2) Security measures need to be in place to prevent unauthorized trespass and access. All access doors to electrical equipment shall be locked and/or fenced as appropriate to prevent entry by non-authorized person(s).
- 3) All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner and disposed of in accordance with current DEP regulations.
- 4) Each SEF shall have a minimum one sign, not to exceed two square feet in area, posted on the security fence, if applicable. The sign shall contain at least the following:
  - a. Warning high voltage
  - b. Manufacturer and owner/operator's name
  - c. Emergency contact numbers (list more than one number)
- 5) To the extent applicable, a SEF shall comply with the Pennsylvania Uniform Construction Code 34 PA. Code.

#### E. Advertising.

No portion of the SEF shall contain or be used to display advertising. The manufacturer's name and equipment information and indication of ownership shall be allowed on any equipment of the SEF provided they comply with any sign regulations enacted in the Township.

#### F. Contact Person.

The owner, operator, and/or landowner shall identify a qualified person for the public to contact with inquiries and complaints throughout the life of SEF. An address, phone number, and email address for the contact person shall be provided to the Township and updated as necessary. The SEF owner, operator, and/or landowner shall make reasonable efforts to respond to the public inquiries and comments.

G. Decommissioning.

- 1) The owner or operator of a SEF and/or the owner of the land on which the SEF is located shall complete decommissioning within 12 months after the site ceases to generate energy for use by third parties for commercial gain. Upon written request by the owner, operator, and/or landowner and for good cause shown, the Township may grant a reasonable extension of time. The SEF will be presumed to be at the end of its useful life if no electricity or other form of power is generated for a continuous period of 3 months for provision to the grid for use by third parties for commercial gain by permit holder. All decommissioning expenses shall be the responsibility of the owner, operator, and/or landowner of the SEF.
- 2) Decommissioning shall include the removal of panels, buildings, solar array connections, electrical components, equipment, equipment pads, and roads, including foundations, as well as any other associated facilities. The SEF site area shall be restored to its preexisting condition, suitable for its prior use. Any foundation shall be removed to a minimum depth of 60 inches below grade or to the level of the bedrock if less than 60 inches below grade.
- 3) All access roads to the SEF shall be removed, cleared, and restored to a stabilized grass condition by the owner, operator, and/or landowner unless the landowner(s) request, in writing, a desire to maintain the access road. Jackson Township will not be assumed to take ownership of any access road unless through official action of the Board of Supervisors.
- 4) The site and any disturbed earth shall be cleared of any debris and restored to a stabilized grass condition by the owner, operator, and/or landowner or their assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.
- 5) If required, an Erosion and Sediment Pollution Control Plan and/or National Pollutant Discharge Elimination System (NPDES) permit shall be obtained prior to decommissioning activities.
- 6) In addition to the Decommissioning Requirements listed previously, the SEF shall also be subject to the following:
  - a) Financial security must be provided to the Township to cover the cost of decommissioning the SEF.

- b) An independent and licensed professional engineer shall be retained by the owner, operator, and/or landowner to estimate the cost of performing decommissioning activities required herein. The estimate may include an estimated salvage and resell value, discounted by a factor of 10%. The formula used to calculate the Net Decommissioning Cost is as follows:

[Gross cost of decommissioning activities] – [90% of credit of salvage and resell value of material] = Net Decommissioning Cost

When determining the Net Decommissioning Cost, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimate shall be reviewed and approved by the Township Engineer and/or Solicitor and used to determine the required amount of financial security. The review costs of the Township Engineer and/or Solicitor shall be paid by the owner, operator, and/or landowner.

- c) The owner, operator, and/or landowner shall post and maintain financial security with the Township in the amount of 110% of the Net Decommissioning Cost.
- d) The financial security shall be in the form of a cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institution and, in a form satisfactory to the Township's solicitor.
- e) On every 5<sup>th</sup> anniversary of the date providing financial security, the SEF owner, operator, and/or landowner shall provide an updated decommissioning cost estimate, utilizing the formula set forth above with adjustments for inflation, cost, and value changes. If the Net Decommissioning Cost increases by more than 10% compared to the original decommissioning cost estimate, new financial security in the amount of 110% of the updated Net Decommissioning Cost estimate shall be provided. If the estimated Net Decommissioning Cost estimate decreases by greater than 10% compared to the original decommissioning cost estimate, the Township shall release from security any amounts held in excess of 110% of the updated Net Decommissioning Cost.
- f) A condition of the financial security shall be notification by the bonding company or Federal or state-chartered lending institution to the Board of Supervisors when the bond or irrevocable letter of credit is about to expire or be terminated.
- g) Failure to keep the financial security in effect while a SEF is in place will be a violation of the zoning permit if a lapse in the bond or irrevocable letter of credit occurs. Jackson Township may take action up to and including requiring ceasing operation of the SEF until the financial security is reposted.

- h) The bonding company or Federal or state-chartered lending institution shall release the decommissioning financial security following completion of decommissioning activities upon written approval of the Township.
- i) If the owner, operator, and/or landowner fails to complete decommissioning within the periods addressed previously, then the Township may draw upon the financial security and take such measures as necessary to complete decommissioning of the SEF.

H. Compatibility with other Ordinance Requirements.

Approvals issued pursuant to this Ordinance do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance.

I. Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the special exception approval.

J. Certification and Compliance.

- 1) The Township must be notified of a change in ownership of a SEF or a change in ownership of the property on which the SEF is located.
- 2) The Township reserves the right to inspect any SEF to ensure compliance with the Ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the SEF.
- 3) The SEF owner(s) or operator(s) shall provide the Township Zoning Officer with a copy of the yearly maintenance inspection.

11. All ordinances, parts, sections, or subsections of ordinances which are inconsistent with the provisions of this Ordinance are hereby expressly repealed and/or rescinded.

12. If any part, subpart, section, or subsection of this Ordinance is found by a Court of competent jurisdiction to be unenforceable or ineffective in any manner, such findings shall have no effect upon the remaining parts, subparts, sections, and subsections of this Ordinance which shall continue in full force and effect.

13. This Ordinance shall become effective immediately as permitted by law.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

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Vice Chairman