

**TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO.: 174 of 2026

**AN ORDINANCE OF THE TOWNSHIP OF UPPER BERN, BERKS
COUNTY, PENNSYLVANIA, AMENDING THE UPPER BERN
TOWNSHIP ZONING ORDINANCE OF 2008, BY REPEALING ARTICLE
9, SECTION 922, SUBSECTION C (“ALTERNATIVE AND RENEWABLE
ENERGY SYSTEMS – SOLAR ENERGY SYSTEMS”), BY ADDING OR
OTHERWISE ADOPTING ARTICLE 9, SECTION 925 (“SOLAR
ENERGY SYSTEMS”), AND BY AMENDING ARTICLE 2, SECTION 202
 (“DEFINITIONS”).**

WHEREAS, the Township of Upper Bern has duly adopted and does maintain a zoning ordinance titled the “Upper Bern Township Zoning Ordinance of 2008”, as amended (the “Zoning Ordinance”); and

WHEREAS, the Board of Supervisors of the Township of Upper Bern has previously adopted Ordinance No. 120 of 2012, which includes certain standards and criteria relating to the establishment, operations and maintenance of alternative and renewable energy systems within the Township; and

WHEREAS, the Pennsylvania Municipalities Planning Code (the “MPC”), at 53 P.S. §10609, authorizes the Board of Supervisors to add to, repeal or otherwise amend said Zoning Ordinance; and

WHEREAS, the Board of Supervisors has considered all comments of the Berks County Planning Commission, Shartlesville Community Fire Company No. 1, and the Upper Bern Township Planning Commission, in addition to the general public after public hearing duly held pursuant to and in accordance with the provisions of the MPC and all applicable laws; and

WHEREAS, the Board of Supervisors has determined it is in the best interest of the health, safety and general welfare of the Township and its residents to amend the standards and criteria regulating and otherwise governing the establishment and operation of solar energy systems within the Township of Upper Bern.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, that the Board of Supervisors of the Township of Upper Bern does hereby approve and adopt the following amendments to the Zoning Ordinance:

Section 1. All provisions of Section 922 of the Zoning Ordinance regarding solar energy, Solar Energy Systems, and solar energy facilities, including without limitation Section 922(D), are hereby repealed, and all other provisions of that Section shall remain in effect. Section 922(B) of the Zoning Ordinance shall be amended to insert Section 922(B)(5) as follows:

(5) Solar energy, Solar Energy Systems, and solar energy facilities are excluded from Section 922, and are included in Section 925, of this Zoning Ordinance.

Section 2. The following provisions shall amend and replace the provisions contained under Section 202 (Definitions) of the Zoning Ordinance:

Glare: An effect produced by light intensity sufficient to cause annoyance, discomfort, or loss in visual performance/visibility.

Solar Array: A grouping of multiple Solar Modules with the purpose of harvesting solar energy.

Solar Easement: A covenant, deed, restriction or other written and recorded instrument evidencing a right to assure access to direct sunlight executed by or on behalf of the landowner. Any required Solar Easement must run with the land and specifically define protected solar angles/hours with restrictions and terms.

Solar Energy System: A use containing a collection of interconnected technologies and equipment designed to capture photovoltaic energy from the sun, convert it into a usable form of energy, and distribute it for use or storage. Solar Energy Systems shall include the following subcategories of use:

Accessory Solar Energy System (ASES): A solar collection system on an area of land or portion of a building or structure primarily for on-site use which is subordinate and customarily incidental to the existing use of the parcel, building or structure, and is designed for the purpose of reducing on-site consumption of utility power and/or fuels. ASES may include: ground- or roof-mounted solar arrays/modules and related equipment.

Principal Solar Energy System (PSES): A solar collection system on an area of land used principally to capture solar energy, convert it to electrical or thermal power, and supply said power primarily for off-site use. PSES may include: solar arrays and accessory structures such as substations, electrical infrastructure, transmission lines, and other appurtenant structures.

Solar Module: A grouping of Solar/Photovoltaic Cell for the purpose of harvesting greater amounts of solar energy.

Solar Panel: The part or portion of a Solar Energy System containing one or more Solar/Photovoltaic Cells or Modules, the purpose of which is to convert solar energy for use in heating, cooling and/or for electricity on- or off-site.

Solar/Photovoltaic Cell: The smallest basic unit of a solar or photovoltaic device or system which generates electricity when exposed to sunlight.

Solar Related Equipment: Items including Solar/Photovoltaic Cells, Modules, Pannels or Arrays, and/or lines, pumps, batteries, mounting brackets, framing equipment, structural foundation or

other environmental or structural materials and modifications to land, building or structure that are used for or intended to be used for the collection of solar energy.

Section 3. The following provisions shall be added anew to the Upper Bern Township Zoning Ordinance under Section 925 (“Solar Energy Systems”) of the Zoning Ordinance:

§925. Solar Energy Systems.

(A.) Use Authorization and Districts.

(1.) ASES with an energy output cap of 10 kW shall be permitted as an accessory use by right in all zoning districts subject to the provisions of this Zoning Ordinance. ASES with an anticipated energy output greater than 10 kW shall be permitted as a conditional use in all zoning districts, provided that the principal use is permitted in the underlying zoning district and is not a nonconforming use.

(2.) PSES shall be permitted only as a conditional use in the (AI) Agricultural Industrial Zoning District, subject to the provisions of this Zoning Ordinance.

(B.) General Standards. Any ASES and/or PSES installation shall comply with the following standards and criteria:

(1) Codes and Standards. The design and layout of any proposed Solar Energy System shall conform to the applicable industry and code standards, including the Upper Bern Township Building Code(s) and Fire Code(s), the Pennsylvania Uniform Construction Code (UCC), and all other applicable fire and life safety requirements.

(2) Prerequisite Qualifications. Solar energy system installers must certify that they are listed or otherwise identified as a certified installer through the Pennsylvania Department of Environmental Protection (DEP) Sunshine Program; are certified by the North American Board of Certified Energy Practitioners (NABCEP); or have completed an accredited photovoltaic or solar design and installation training program and have installed no less than three (3) Solar Energy Systems in the Commonwealth of Pennsylvania.

(3) Undergrounding. All on-site utility, transmission, and plumbing lines must be placed underground or in such a manner as to reduce visibility of system connections and equipment from adjoining parcels, to the greatest extent feasible.

(4) Stormwater. No Solar Energy System or Solar Related Equipment may be located or arranged in such a way as to create or exacerbate existing stormwater management concerns.

(5) Lot Coverage. The total surface area of a ground-mounted Solar Energy System and its Solar Related Equipment, together with all existing structures and improvements

present on the proposed site, shall not exceed the maximum lot coverage requirements of the underlying zoning district in which the facility will be located.

(6) Public Utility Notice and Approval. For all Solar Energy Systems that are intended or required to be grid-connected, the Applicant shall provide written confirmation that the public utility company to which the system will be integrated has been notified of the Applicant or landowner's intent to install such system, and approved of such connection. Off-grid or on-lot systems shall not require approval from the public utility.

(7) Reflectivity. All proposed Solar Energy Systems shall be sited and finished to prevent all concentrated solar radiation and Glare from projecting onto nearby parcels, buildings, structures, or roadways. Exterior surfaces must be non-reflective. Applicant shall bear the burden to prove, through the testimony or written report of a qualified professional, that adequate siting, controls, and safeguards shall be put in place for the avoidance of material adverse solar radiation or Glare impact(s).

(8) Signage and Advertisement(s). All exterior signage shall comply with Article 11 of this Zoning Ordinance. Notwithstanding any provision thereof, no exterior signage may be placed on any Solar Related Equipment.

(9) Conservation of Wooded Areas. No application for installation of a Solar Energy System may include clear cutting or the removal of mature trees or woodland areas unless necessary for the health and safety of the community in which the system is proposed and in accordance with silvicultural principles. If removal is allowed, the Applicant or landowner shall replace or plant, at a location approved by the Zoning Officer and/or the Upper Bern Township Board of Supervisors, additional trees at a ratio of two (2) new trees per one (1) removed tree.

(10) Limitation on Placement. No Solar Energy System or Solar Related Equipment may be located in any existing legal easement or right-of-way; land designated as a wetland, floodplain, or other environmentally sensitive area; and/or land containing prime agricultural soils. No Solar Related Equipment shall be constructed, placed or otherwise permitted in a required setback or buffer yard except for meters, pumps, lines or other ancillary equipment related to a necessary utility fixture, provided that said ancillary equipment is installed underground in accordance with Section 925(B)(3) of this Ordinance. Applicant shall, to the extent practicable, ensure that any connections to necessary utility fixtures be installed underground or in such a manner as to limit visibility from any perimeter lot line.

(11) Maintenance, Violations and Enforcement. Upon completion of installation, the Solar Energy System shall be maintained in good working order in accordance with manufacturer's standards, and any other applicable codes under which the system was constructed. Failure of the owner to maintain the Solar Energy System in good working order shall serve as grounds for appropriate enforcement actions by Upper Bern Township in accordance with applicable ordinances.

(12) Hazard Warnings and Safety. All Solar Energy Systems shall post clearly visible hazard warnings at the base of all ground-mounted transformers, substations, and/or Solar Related Equipment. Visible reflective warnings shall also be placed on and along any guy wires, utility connections or other materials projecting ten feet (10') or higher above the existing grade. Additionally, all electrical control devices shall be locked or sealed to prevent access except during maintenance or repair.

(13) Additional Requirement for Zoning Permit Application. Each application for a Zoning Permit under Section 1302 of this Zoning Ordinance shall also be accompanied by a drawing or plot plan showing the location of the Solar Energy System, including all Solar Related Equipment, on the building, structure, or property; the location of all above-ground or subterranean utility connections; the actual or anticipated output of the proposed Solar Energy System in kW's; and proof that the portion of building, structure, or property on which the Solar Energy System will be installed has sufficient structural capacity to support it.

(14) Expansion and Modification. Any proposed expansion, rearrangement, relocation, or modification to an existing and lawful Solar Energy System shall require additional approval in the same manner as was required under this Section for its initial authorization.

(15) No Right by Permit. As a condition to the issuance or maintenance of any permit or approval, the Applicant agrees that the issuance of such approval does not confer the right to be free from shadows or other obstructions caused by subsequent development or vegetation on or from adjoining properties. Nothing in this section shall prohibit the Applicant from seeking additional protections and operational safeguards in the form of Solar Easements with adjoining landowners.

(C.) Accessory Solar Energy System (ASES) Requirements.

(1) ASES with Energy Output Cap of 10 kW.

(i.) Nonground-Mounted ASES. All ASES facilities which are proposed to be affixed to existing accessory or principal buildings or structures shall not extend beyond the existing edge of any roof, wall or structure. No nonground-mounted ASES may extend beyond the maximum height requirements of the underlying zoning district in which the ASES will be located.

(ii.) Ground-Mounted ASES. All ground-mounted ASES together with its corresponding Solar Related Equipment shall comply with the following standards and criteria:

(a.) No ground-mounted ASES and corresponding Solar Related Equipment may be located in any front yard or between the principal building and any public right-of-way.

(b.) No ground-mounted ASES may exceed a maximum height of fifteen feet (15') above the existing grade.

(c.) All ground-mounted ASES and corresponding Solar Related Equipment shall comply with the setback provisions for principal structures of the underlying zoning district in which the facility will be located.

(d.) If the proposed ground-mounted ASES and corresponding Solar Related Equipment will be installed on a lot adjoining a residential use or uses, the proposed ASES installation shall be adequately screened to minimize glare to and visibility from such adjoining lots and their residential use(s).

(iii.) Decommissioning (ASES). All ASES and corresponding Solar Related Equipment shall be removed within twelve (12) months after discontinuance/abandonment or at the end of the ASES's useful life. An ASES use shall be presumed abandoned if no electricity is generated for a period of twelve (12) continuous months. In regard to this section, Upper Bern Township may from time to time require the owner or operator of any ASES facility to provide the ASES facility's energy generation data for the immediately preceding twelve (12) months.

(2) All Other ASES. Any ASES not qualifying under Section 925(C)(1) of this Zoning Ordinance shall be required to comply with following requirements. For the purposes of this Section, all such Solar Energy Systems shall be referred to collectively as "Other ASES".

(i.) Nonground-Mounted ASES. All Other ASES facilities which are proposed to be affixed to existing accessory or principal buildings or structures shall not extend beyond the existing edge of any roof, wall or structure. No nonground-mounted Other ASES may extend beyond the maximum height requirements of the underlying zoning district in which the Solar Energy System will be located.

(ii.) Ground-Mounted ASES. All ground-mounted Other ASES together with its corresponding Solar Related Equipment shall comply with the following standards and criteria:

(a.) Any ground-mounted Other ASES, and corresponding Solar Related Equipment, shall be set back a minimum of one hundred feet (100') from all perimeter lot lines, provided the Solar Energy System does not abut any residential use or public right-of-way. For any Other ASES sharing a lot line with an adjoining residential use or public right-of-way, the required setback shall be increased to one hundred fifty feet (150') from that shared lot line.

(b.) No ground-mounted Other ASES and corresponding Solar Related Equipment may be located in any front yard or between the principal building and any public right-of-way.

(c.) No ground-mounted Other ASES may exceed a maximum height of fifteen feet (15') above the existing grade.

(d.) All ground-mounted Other ASES and corresponding Solar Related Equipment shall comply with the setback provisions for principal structures of the underlying zoning district in which the facility will be located or such larger setbacks established in this Section.

(e.) If the proposed ground-mounted ASES and corresponding Solar Related Equipment will be installed on a lot adjoining a residential use or uses, the proposed ASES installation shall be adequately screened to minimize glare to and visibility from such adjoining lots and their residential use(s).

(iii.) Screening and Landscaping Requirements. Nonresidential ground-mounted ASES uses shall meet all landscaping and buffer yard requirements under Section 915 of this Ordinance.

(iv.) Environmental Impact. Any application for an Other ASES shall be accompanied by the submission of an Environmental Impact Study. This study shall be prepared and certified by a qualified environmental engineer, and shall include an assessment of potential impacts of the operation and maintenance of the PSES facility on water quality, air quality and soil quality of the site and surrounding area.

(v.) Decommissioning. The Other ASES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The Other ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months. The Solar Energy System owner shall then have twelve (12) months in which to dismantle and remove all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, temporary access 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. If the owner fails to dismantle and/or remove the Other ASES and restore the land within the established time frames, Upper Bern Township reserves the right to complete the decommissioning and land restoration at the owner's expense.

(D.) Principal Solar Energy System (PSES) Requirements.

(1) Setbacks, Location and Dimensional Requirements. Any proposed PSES together with all corresponding Solar Related Equipment, shall comply with the following requirements:

(i.) Minimum Lot Size. No PSES and corresponding Solar Related Equipment shall be permitted on a lot of less than ten (10) acres.

(ii.) Setbacks. Any PSES, and corresponding Solar Related Equipment, shall be set back a minimum of one hundred feet (100') from all perimeter lot lines, provided the PSES does not abut any residential use or public right-of-way. For any PSES sharing a lot line with an adjoining residential use or public right-of-way, the required setback shall be increased to one hundred fifty feet (150') from that shared lot line.

(iii.) Maximum Height, Buildings. The height of any existing building or new building proposed as part of a PSES development shall comply with the dimensional requirements of the underlying zoning district in which the PSES will be constructed.

(2) Other Requirements.

(i.) Lighting. PSES facilities may not contain artificial lighting, including illuminated or animated signage as set forth in Section 1105 (C) of this Zoning Ordinance, except as required by law.

(ii.) Screening and Buffer Yards.

(a.) PSES facilities shall meet all landscaping and buffer yard requirements under Section 915 of this Ordinance.

(b.) Any vehicle or tractor-trailer truck parking, outdoor storage, and/or loading/unloading areas visible from and within two hundred fifty feet (250') of the perimeter lot lines of the PSES and corresponding Solar Related Equipment shall be separated from such lot lines by an earthen berm on the lot in accordance with this Section and Section 915 of this Ordinance. A Landscaping Plan, prepared by a registered design professional, shall be submitted and provide for the following additional items:

(1.) The berm shall average a minimum of five feet (5') in height above the existing and adjoining grade, or more, as required by the Township.

(2.) The berm shall be constructed or arranged in such as manner as to have variations in height to comport with the aesthetic, natural and/or residential character of surrounding uses.

(3.) The top of any berm shall not have a width of less than five feet (5').

(4.) The side slope of any berm shall not exceed a maximum slope of three (3) horizontal feet to each one (1) vertical foot.

(5.) The berm shall be covered by a well-maintained four-season natural ground cover, such as grass, and such other vegetation or screening material as may be required under this Zoning Ordinance.

(6.) Required plantings and screening shall be constructed or arranged on the outside of and atop the berm. All plantings must be designated and approved in accordance with the Township's recommendations of native species.

(iii.) Emergency Planning and Management. The Applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall provide the following:

(a.) Any ERP shall have been reviewed, approved and accepted by the applicable Emergency Management Agency, the Township Fire Department and the Pennsylvania State Police;

(b.) Detailed procedures for fire suppression, containment, ventilation and evacuation; including the location(s) of any automated fire suppression systems, the location of any on-site storage of flammable or potentially hazardous chemicals or materials, and the location of all specialized fire-fighting equipment;

(c.) Evaluation of the access roads and hydrant locations on and around the site to ensure suitable access for emergency equipment within the site. Spacing between the Solar Array rows must be at least twenty feet (20') wide to allow for emergency equipment.

(d.) Assurances that all first responders receive adequate annual training for the specific features of the installed system.

(e.) Compliance with all fire safety inspection requirements of the Township Code of Ordinances; and, in addition, must include provisions for annual fire safety inspections to be performed by a qualified professional on behalf, and at the expense, of the owner or occupant(s) of the PSES facility.

(f.) Any PSES facility proposing battery storage or devices capable of storing energy, whether as a principal source of power or backup power, for use on-site, shall demonstrate compliance with the Township Fire Code and the National Fire Protection Association (NFPA) Standard(s).

(g.) Adequate security measures or exterior fencing around the perimeter of the facility.

(iv.) Parking. All PSES shall provide one and one-half (1.5) paved off-street parking space for every employee based upon the maximum number of employees or maintenance workers that may on-site at any given time, or one space for every 10,000 square feet of lot area, whichever is lesser. PSES facilities shall provide no less than one (1) off-street loading space.

(v.) Environmental Impact. Any application for a PSES facility shall be accompanied by the submission of an Environmental Impact Study. This study shall be prepared and certified by a qualified environmental engineer, and shall include an assessment of potential impacts of the operation and maintenance of the PSES facility on water quality, air quality and soil quality of the site and surrounding area.

(vi.) Decommissioning. The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES 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. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original. If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames, Upper Bern Township reserves the right to complete the decommissioning and land restoration at the landowner's expense.

The Applicant or operator of any PSES facility shall also provide continuous financial security in the amount of 110% of the estimated cost of decommissioning, subject to the approval of the Township. Every fifth (5th) year from the anniversary of the date of such financial security, the Applicant or operator of the PSES facility shall provide updated documentation relating to the costs of decommissioning. If the security amount increases, the Applicant or operator shall remit the increased financial security to the Township within thirty (30) days of the approval of the updated decommissioning security estimate. If the security amount decreases by a value greater than or equal to ten percent (10%) of the agreed upon initial security amount, the Township shall release any amounts held in excess of the updated cost estimate.

(E.) Preemption. If applicable law establishes other financial responsibility and/or decommissioning provisions which preempt some or all of Section 925(C) or Section 925(D) of this Zoning Ordinance, including Act 44 of 2026, the Applicant shall provide proof of compliance with such other requirements in lieu of compliance with the preempted provisions of Section 925(C) or Section 925(D). All other provisions of this Zoning Ordinance shall continue to apply.

Section 4. Severability.

In the event any provision, section, sentence, clause or part of this ordinance shall be deemed invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this ordinance; it being the intent of Upper Bern Township, by and through its Board of Supervisors, that the remainder of this ordinance shall be in full force and effect.

Section 5. Repealer.

All ordinances or resolutions or parts thereof are hereby repealed and rescinded only insofar as they conflict or are otherwise inconsistent with this Ordinance.

ORDAINED AND ENACTED by the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania, in lawful session duly assembled, this 10th day of September 2026, by a vote of 3 to 0.

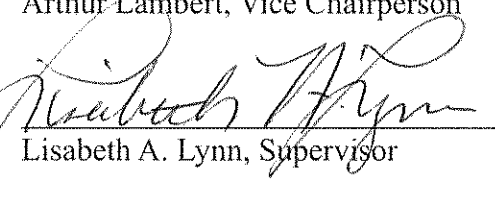
Attest:

**UPPER BERN TOWNSHIP
BOARD OF SUPERVISORS**


Secretary

By: 
Gloria Grim, Chairperson

By: 
Arthur Lambert, Vice Chairperson

By: 
Lisabeth A. Lynn, Supervisor