

MIDDLESEX TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA
ORDINANCE NO. 5 - 2011

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MIDDLESEX TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING THE MIDDLESEX TOWNSHIP ZONING ORDINANCE TO PROVIDE, AMONG OTHER AMENDMENTS, FOR REGULATING THE PLACEMENT, CONSTRUCTION, OPERATION, MAINTENANCE AND DECOMMISSIONING OF SOLAR ENERGY SYSTEMS AND THE ISSUANCE OF ZONING PERMITS AND CONDITIONAL USE APPROVALS IN CONNECTION THEREWITH.

BE IT HEREBY ENACTED AND ORDAINED, and it is hereby enacted by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania, as follows:

SECTION 1: Ordinance No. 3-89 entitled "Middlesex Township Zoning Ordinance" enacted June 30, 1989, and subsequently amended, is hereby amended as follows:

A. Article II, Section 2.03, is hereby amended to include the following additional and/or revised definitions:

PRINCIPAL SOLAR ENERGY SYSTEM: A system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

ACCESSORY SOLAR ENERGY SYSTEM: A system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted solar collector devices or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. Solar systems with an aggregate collection and/or focusing area of ten (10) square feet or less are exempt from this ordinance.

SOLAR ENERGY COLLECTION SYSTEM: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy

source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat. Passive solar energy structures incorporated into buildings, which use the natural properties of materials and architectural components of buildings to collect and store solar energy shall be addressed in the review and approval of that structure and not this ordinance.

SOLAR RELATED EQUIPMENT: Items including, but not limited to, a solar photovoltaic cell, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

SOLAR SKYSPACE: The space between a given location and the sun which must remain unobstructed between 9:00 a.m. and 3:00 p.m. on the date of the winter solstice in order to permit efficient solar utilization of the location.

SOLAR SKYSPACE EASEMENT: A right, expressed as an easement, covenant or condition or other property interest in any deed or other instrument executed by or on behalf of any property owner which protects the solar skyspace of an actual, proposed or designated solar collection system at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace may be described as a three-dimensional space in which an obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector must be unimpeded or combination of the two methods.

PRINCIPAL SOLAR ENERGY SYSTEM OWNER: The person, entity or entities having legal or equitable ownership interest in the principal solar energy system, including their respective successors, assigns and heirs.

PRINCIPAL SOLAR ENERGY SYSTEM OPERATOR: The person, entity or entities entrusted with the responsibility for the day-to-day operation and maintenance of the principal solar energy system.

NON-PARTICIPATING LANDOWNER: Any landowner that does not have all or any portion of a principal solar energy system, wind turbine, wind energy facility and/or their appurtenances on the landowner's property.

PARTICIPATING LANDOWNER: An owner of a property whose property is subject to an agreement or lease with a wind turbine, wind energy facility and/or principal solar energy system owner or operator regarding the installation and maintenance of a wind turbine, wind energy facility and/or principal solar energy system.

B. ARTICLE V, OS Conservation/Open Space District, is hereby amended as follows:

1. Section 5.03, Accessory Uses, is hereby amended to include the following additional Paragraph:

J. Accessory solar energy system, subject to the requirements of Article XIV.

2. Section 5.08 is hereby amended to include the following additional Paragraph:

B. Principal solar energy system, subject to the requirements of Article XIV, except in the North Mountain Conservation Area.

C. ARTICLE VI, RF Residential Farm District, is hereby amended as follows:

1. Section 6.03, Accessory Uses, is hereby amended to include the following additional Paragraph:

M. Accessory solar energy system subject to Article XIV.

2. Section 6.08 is hereby amended to include the following additional Paragraph:

B. Principal solar energy system, subject to the requirements of Article XIV.

D. ARTICLE VII, RC Residential Country District, is hereby amended as follows:

1. Section 7.03, Accessory Uses, is hereby amended to include the following additional Paragraph:

J. Accessory solar energy system, subject to the requirements of Article XIV.

E. ARTICLE VIII, RS Residential Suburban District, is hereby amended as follow:

1. Section 8.03, Accessory Uses, is hereby amended to include the following additional Paragraph:

K. Accessory solar energy system, subject to the requirements of Article XIV.

F. ARTICLE IX, VC Village Center District, is hereby amended as follows:

1. Section 9.03, Accessory Uses, is hereby amended to include the following additional Paragraph:

M. Accessory solar energy system, subject to the requirements of Article XIV.

G. ARTICLE X, CH Commercial Highway District, is hereby amended as follows:

1. Section 10.04, Accessory Uses, is hereby amended to include the following additional Paragraph:

S. Accessory solar energy system, subject to the requirements of Article XIV.

2. ARTICLE X COMMERCIAL HIGHWAY DISTRICTS, Section 10.05, special exception uses, is hereby amended to include the following revised paragraph:

L. Massage Establishments (See Section 14.57)

H. ARTICLE XI, LI Light Industrial District, is hereby amended as follows:

1. Section 11.03, Permitted Uses, is hereby amended to include the following revised Paragraph:

13. Municipal and public utility buildings, structures and yards, treatment plants and pump stations, heating and electric power generation plants. Electric power generation plants shall not include the following specific Uses permitted only by conditional use approval of the Board of Supervisors.

- (a) Wind Energy Facilities as provided in Section 11.10.A. of this Article XI.
- (b) Principal Solar Energy Systems as provided in Section 11.10.B. of this Article XI.

2. Section 11.04, Accessory Uses, is hereby amended to include the following additional Paragraph:

D. Accessory solar energy system, subject to the requirements of Article XIV.

3. Section 11.10 is hereby amended to include the following additional Paragraph:

B. Principal solar energy system, subject to the requirements of Article XIV.

I. ARTICLE XII, IG Industrial General District, is hereby amended as follows:

1. Section 12.03, Permitted Uses, is hereby amended to include the following revised

Paragraph:

14. Municipal and public utility buildings, structures and yards, treatment plants and pump stations, heating and electric power generation plants. Electric power generation plants shall not include the following specific Uses permitted only by conditional use approval of the Board of Supervisors.

(a) Wind Energy Facilities as provided in Section 12.10.A. of this Article XII.

(b) Principal Solar Energy Systems as provided in Section 12.10.B. of this Article XII.

2. Section 12.04, Accessory Uses, is hereby amended to include the following additional

Paragraph:

D. Accessory solar energy system, subject to the requirements of Article XIV.

3. Section 12.10 is hereby amended to include the following additional Paragraph:

B. Principal solar energy system, subject to the requirements of Article XIV.

J. ARTICLE XIV - SUPPLEMENTARY REGULATIONS, is hereby amended to include the following additional Section:

SECTION 14.59 - ACCESSORY SOLAR ENERGY SYSTEMS.

A. Accessory solar energy systems shall be permitted as a use by right in all Zoning Districts and shall be subject to the following regulations:

1. The design, installation and ongoing maintenance of accessory solar energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Middlesex Township Building Code, Middlesex Township Property Maintenance Code and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
2. All accessory solar energy systems shall be designed and located in such a manner as to prevent glare on any existing occupied buildings located on any adjacent properties as well as on adjacent street rights-of-way. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
3. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
4. All accessory solar energy systems shall be sited as inconspicuously as practicable.
5. All access doors to accessory solar energy systems, as well as electrical equipment, outbuildings and all appurtenances thereto, shall be secured or fenced and secured, as appropriate, to prevent entry by non-authorized personnel. Appropriate safety/warning signage shall be placed at ground mounted electrical devices.
6. Roof and wall mounted accessory solar energy systems shall be sited in accordance with the following:
 - (a) Accessory solar energy systems mounted on roofs or walls of any building shall be subject to the maximum height regulations specified within each of the underlying Zoning Districts.
 - (b) Accessory solar energy systems located on a wall of any structure shall not extend more than two (2) feet into any required side or rear yard setback.
 - (c) For roof or wall mounted systems, the applicant shall provide evidence in the form of plans certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania that the roof or wall is capable of holding the load imposed on the structure.
7. If the accessory solar energy system is unable to be located on a roof or a wall of a building as is preferred; then placement of accessory solar energy systems which are freestanding ground mounted and detached from other buildings on the property shall be allowed in accordance with the following:

- (a) Freestanding ground mounted accessory solar energy systems shall not exceed fifteen (15) feet in height above the ground elevation surrounding the systems.
 - (b) The total surface area of all freestanding ground mounted accessory solar energy systems on the property shall not exceed more than fifteen (15) percent of the lot area.
 - (c) The area beneath ground mounted accessory solar energy systems is typically not considered impervious cover. However, use of construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable Zoning District. Owners are encouraged to use low growing vegetative surfaces under the system as a best management practice for storm water management.
 - (d) An applicant for approval of a Zoning Permit to allow a freestanding ground mounted accessory solar energy system which, due to site constraints must be located nearer to the street on which the principal building fronts than such principal building, must provide adequate evidence of such site constraints to the Zoning Officer. After satisfactory review of an application for a Zoning Permit to allow a freestanding ground mounted accessory solar energy system which is located nearer to the street on which the principal building fronts than such principal building, the Zoning Officer may issue a Zoning Permit for the proposed Use in accordance with the following standards:
 - (1) Such freestanding ground mounted accessory solar energy systems must be adequately buffered with screen buffers, visual screens, fences or walls facing the front yard and facing both side yards in accordance with definitions in Section 2.03 of the Zoning Ordinance and requirements of Section 719 c.(13) of the Subdivision and land Development Ordinance.
 - (2) The minimum yard setbacks for such freestanding ground mounted accessory solar energy systems shall be as follows:
 - Front yard – one hundred fifty (150) feet
 - Side yard – thirty (30) feet
 - Total side yards – sixty (60) feet
 - (e) Except as listed in Section 14.59.A.7.(d)(2) above, all accessory solar energy systems must meet the minimum yard requirements for the applicable Zoning District where they are proposed to be located.
8. The applicant shall maintain the accessory solar energy system in good and safe condition. Whenever an accessory solar energy system becomes structurally unsafe, endangers the safety of the structure or premise, or endangers public safety, the Zoning Officer shall give written notice to the owner of the premises on which the accessory solar energy system is located that such system shall be made safe or removed.

9. As a condition to operate an accessory solar energy system, the owner of the system shall provide written authorization to the zoning officer that the public utility company approves the connection. Such documentation will be a criterion for the certificate of occupancy for the system. Off-grid systems shall be exempt from this requirement.
 10. Where a subdivision or land development involves the use of solar access, solar skyspace easements may be provided, and if they are, shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar skyspace easement shall include but not be limited to:
 - (a) A permanently identifiable description of the skyspace above the burdened land into which trees, buildings and/or other obstructions as specified by the easement shall not be permitted to encroach;
 - (b) Any terms or conditions under which the solar skyspace easement is granted or will be terminated; and
 - (c) Any provision for compensation by the owner of the land benefiting from the solar skyspace easement, or compensation of the owner of the land burdened by the solar skyspace easement for maintaining the easement.
- B. Zoning Permits required for accessory solar energy system. Zoning Permits documenting compliance with Section 14.45 shall be required for all accessory solar energy systems. Application shall be submitted along with the required application fee to the Zoning Officer on a form prescribed by the Township. Zoning Permits must be kept on the premises where the accessory solar energy system is constructed and must be produced and exhibited to the Zoning Officer upon request. In addition to Zoning Permits, Building Permits are required for all accessory solar energy systems in accordance with the duly applicable building codes.
1. Zoning Permits to erect new accessory solar energy system shall be issued only after the Zoning Officer is satisfied that accessory solar energy system will comply with all of the applicable provisions of this Ordinance.
 2. Zoning Permit Fees – Every applicant for a Zoning Permit hereunder shall pay to the Township a fee regulated by this part in accordance with a fee schedule adopted by resolution of the Board of Supervisors.
 3. After a Zoning Permit has been issued, the owner of the accessory solar energy system shall promptly notify the Zoning Officer within 30 days of the completion of the permitted activity. The Zoning Officer shall inspect the accessory solar energy

system and, if it is finished in accordance with the Zoning Permit, the Zoning Permit shall be validated by signature of the Zoning Officer.

4. Expiration of Zoning Permit. If the accessory solar energy system authorized by any Zoning Permit has not been erected or completed within one hundred twenty (120) days from the date of issuance of that permit, the Zoning Permit shall be deemed expired. An expired Zoning Permit may be renewed within thirty (30) days from the expiration date for good cause shown and upon payment of a Zoning Permit extension fee, as established by resolution of the Supervisors.
5. Revocation of a Zoning Permit
 - a. The Zoning Officer shall revoke any Zoning Permit if the accessory solar energy system, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the accessory solar energy system not to be in conformity with this Ordinance. The accessory solar energy system must be properly maintained, properly painted and be kept free from all hazards including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the current owner of the accessory solar energy system to conform or to remove the accessory solar energy system. The accessory solar energy system shall be made to conform to the Zoning Permit requirements within thirty (30) days from the date of the notice, or the Zoning Officer shall revoke the Zoning Permit and the subject accessory solar energy system shall be removed by the owner of the premises within 6 months.
 - b. Removal of the violating accessory solar energy system. After issuing an enforcement notice that complies with the Municipalities Planning Code Section 616.1, as amended, the Zoning Officer shall have the power to, and may remove, cause to be removed, or order the removal of an accessory solar energy system that is in violation of this Ordinance. The removal will be completed at the expense of the owner of the accessory solar energy system. Removal shall take place in the following instances.
 1. When an accessory solar energy system constructed after the adoption of this Ordinance or any amendment to it is not in conformance with the provisions of this Ordinance.
 2. If the Zoning Officer finds an accessory solar energy system which presents immediate peril to persons or property, the accessory solar energy system shall be removed.
6. Accessory solar energy systems constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any

physical modification to an existing accessory solar energy system, whether or not existing prior to the effective date of this Section that materially alters the accessory solar energy system shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

7. Issuance of a Zoning Permit by the Zoning Officer to allow an accessory solar energy system is not intended to guarantee an accessory solar energy system owner and/or operator of adequate solar skyspace that is unobstructed from interference by structures and/or vegetation legally installed or maintained at any time on adjacent property of a non-participating landowner. If necessary, an accessory solar energy system owner and/or operator must obtain any necessary solar skyspace easements necessary to guarantee unobstructed solar skyspace access by separate civil agreement(s) with adjacent property owner(s).

K ARTICLE IX – SUPPLEMENTARY REGULATIONS, is hereby amended to include the following additional Section:

SECTION 14.60 - PRINCIPAL SOLAR ENERGY SYSTEMS.

- A. Principal solar energy systems are permitted in the OS – except in the North Mountain Conservation Area, RF, LI and IG Zoning Districts as principal uses by conditional use approval of the Board of Supervisors subject to the following regulations:
 1. The layout, design, and installation of principal solar energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Middlesex Township Building Code, and with all other applicable fire and life safety requirements. The manufacturer specifications for all components of the system shall be submitted as part of the application.
 2. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
 3. All principal solar energy systems shall be designed and located in such a manner as to prevent glare on any existing occupied buildings located on adjacent properties as well as on adjacent street rights-of-way. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
 4. Principal solar energy systems mounted on roofs or walls of any building shall be subject to the maximum height regulations specified within each of the underlying Zoning Districts.

5. For roof or wall mounted systems, the applicant shall provide evidence in the form of stamped plans certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania that the roof or wall is capable of holding the load imposed on the structure.
6. All access doors to principal solar energy systems, as well as electrical equipment, outbuildings and all appurtenances thereto, shall be secured or fenced, as appropriate, to prevent entry by non-authorized personnel. Said fencing shall be no less than eight (8') feet in height, and shall include a locking portal that secures the access area through the fencing.
7. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.
8. The principal solar energy system owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The principal solar energy system owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.
9. The principal solar energy system owner and/or operator shall ensure that the design and operation of any principal solar energy system avoids disruption or loss of radio, telephone, television, cell, internet or similar signals, and shall mitigate any harm caused thereby.
10. The principal solar energy system owner is required to notify the Township immediately upon cessation or abandonment of the operation. The principal solar energy system owner shall then have twelve (12) months in which to dismantle and remove the principal solar energy system from the property. At the time of issuance of the permit for the construction of the principal solar energy system, the principal solar energy system owner shall provide financial security in form and amount acceptable to the Township to secure the expense of dismantling and removing said structures.
11. Each principal solar energy system shall be set back from the Appalachian Trail and any historic structure, district, site or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission a distance no less than five hundred (500) feet. The set back distance shall be measured from the nearest boundary of the principal solar energy system to the nearest point on the foundation of an historic building, structure or resource, or the nearest property line of an historic district or site or the Appalachian Trail.
12. The area beneath ground mounted principal solar energy systems is typically not considered impervious cover. However, use of construction materials under the system could cause the area to be considered impervious and subject to the

impervious surfaces limitations for the applicable Zoning District. Principal solar energy system owners are encouraged to use low growing vegetative surfaces under the system as a best management practice for storm water management.

13. Maintenance, Repair, Replacement and Removal.

- (a) The principal solar energy system owner and/or operator shall repair, maintain and replace the solar collectors and associated equipment during the term of the permit in a manner consistent with principal solar energy system industry standards as needed to keep the principal solar energy system in good repair and operating condition.
- (b) Each solar collector and all related improvements shall be removed within twelve (12) months of the date when the use of the particular solar collector has been discontinued or abandoned by a principal solar energy system owner and/or operator. A solar collector shall be decommissioned as further described in this Ordinance.

14. Decommissioning.

- (a) Each solar collector and all related improvements associated therewith shall be removed within twelve (12) months of the date when the use of the particular solar collector has been discontinued or abandoned by principal solar energy system owner and/or operator, or upon termination of the useful life of same. The solar collector shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months. If requested, the owner and/or operator shall provide evidence to the Township that the principal solar energy system has produced electricity within the previous 12 months.
- (b) Decommissioning shall include removal of principal solar energy system, as well as all improvements or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities. Any earth disturbance resulting from removal of the principal solar energy system must be graded and reseeded.
- (c) Prior to the issuance of a conditional use provided by this Ordinance, applicant, principal solar energy system owner and/or operator shall submit to the Township financial security which shall be deposited with the Township in an amount sufficient to cover the costs of decommissioning all improvements or common amenities, including but not limited to the solar collector(s), all appurtenances, the base and footing, storm water detention and/or retention basins and other related drainage facilities, electrical apparatus, fencing, all auxiliary buildings, and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

- (d) The amount of the financial security to be posted for decommissioning of any improvements, structures and appurtenances as required by this Ordinance shall be equal to one hundred twenty (120%) percent of the anticipated cost. Annually, the Township may adjust the required amount of the financial security by Resolution. Subsequent to said adjustment, if any, the Township may require the principal solar energy system owner and/or operator to post additional financial security in order to assure that the financial security equals said one hundred twenty (120%) percent. Any additional security shall be posted by the principal solar energy system owner and/or operator in accordance with this Ordinance.
- (e) The amount of financial security required shall be based upon an estimate of the cost of decommissioning of any improvements, submitted by the principal solar energy system owner and/or operator and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township may refuse to accept such estimate for good cause shown. If the principal solar energy system owner and/or operator (or the developer) and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and re-certified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Township and the principal solar energy system owner and/or operator (or the developer). The estimate shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the principal solar energy system owner and/or operator (or the developer).
- (f) As the work of decommissioning of any improvements proceeds, the party posting the financial security may request the governing body to release, or authorize the release from time to time, such portions of the financial security necessary for payment to the contractor(s) performing the work. Any such requests shall certify in writing to the Board of Supervisors that such portion of the decommissioning of any improvements has been completed. Upon acceptance of such certification, the Board of Supervisors shall authorize the release by the financial security company of an amount as estimated fairly representing the value of the decommissioning of any improvements.
- (g) When decommissioning has been completed, the principal solar energy system owner and/or operator shall notify the Board of Supervisors in writing, by certified or registered mail, of the completion of the aforesaid decommissioning or all improvements and shall send a copy thereof to the municipal engineer (or engineer hired in this instance). The Board of Supervisors shall direct and authorize the Township Engineer (or engineer hired in this instance) to inspect the site. The Township Engineer (or engineer hired in this instance) shall indicate to the Township approval or rejection of said decommissioning of all improvements, either in whole or in part, and if said improvements or a portion thereof shall not be approved or shall be rejected, said report shall contain a statement of reasons for such non-approval or rejection.

- (h) The Board of Supervisors shall notify the principal solar energy system owner and/or operator as to the acceptance or rejection of the decommissioning. If the decommissioning is acceptable, the Township shall authorize release of the financial security. If the decommissioning is not acceptable or rejected, the principal solar energy system owner and/or operator shall within thirty (30) days of notice by the Township of the deficiencies, correct the same and in the event said deficiencies are not so corrected within the said time period, or in the event the decommissioning is not commenced, the Township may utilize the financial security to accomplish the same as herein set forth.
- (i) In the event that any decommissioning of improvements which are required have not been completed as required in this Ordinance, the Board of Supervisors is hereby granted the power and authority to enforce any financial security by appropriate legal and equitable remedies.
- (j) If proceeds of such financial security are insufficient to pay the cost of decommissioning of improvements covered by said security, the Board of Supervisors may, at its option, proceed with decommissioning all improvements, or completing the decommissioning as necessary to satisfy the terms and provisions of this Ordinance, and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the decommissioning project.
- (k) The Township may prescribe that the principal solar energy system owner and/or operator shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of decommissioning of improvements. Such expenses shall be reasonable and in accordance with the ordinary and customary fees and expenses charged by the Township Engineer (or engineer hired in this instance) for work performed for similar services, as well as attorney's fees incurred by the Township in connection therewith.
- (l) The owner of any participating property which is subject to decommissioning shall be given the option to keep the road(s) created on such owner's property by or in connection with the construction of any principal solar energy system. In such event, the owner desiring to keep the road(s) shall inform the Township in writing of his/her intent to do so and to have the subject road(s) exempted from the decommissioning provisions of this Ordinance.

15. Where a subdivision or land development involves the use of solar access, solar skyspace easements may be provided, and if they are, shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar skyspace easement shall include but not be limited to:
 - (a) A permanently identifiable description of the skyspace above the burdened land into which trees, buildings and/or other obstructions as specified by the easement shall not be permitted to encroach;
 - (b) Any terms or conditions under which the solar skyspace easement is granted or will be terminated; and
 - (c) Any provision for compensation by the owner of the land benefiting from the solar skyspace easement, or compensation of the owner of the land burdened by the solar skyspace easement for maintaining the easement.
16. Audible sound from a principal solar energy system, or addition of one or more transformers to an existing principal solar energy system, shall not exceed forty-five (45) dBA and forty-five (45) dBC (L10, meaning not to be exceeded by more than 10% of the time), as measured at the property line between participating and non-participating landowners. Methods for measuring and reporting acoustic emissions from principal solar energy systems shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.

B. Principal solar energy system Conditional Use Application.

1. The conditional use application shall demonstrate that the proposed principal solar energy system shall comply with this Ordinance.
2. The conditional use application shall contain the following:

A narrative describing the proposed principal solar energy system, including an overview of the project; the project location; the approximate generating capacity of the principal solar energy system; the approximate number, representative types of the solar collectors to be constructed, including their respective generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities. The proposed site shall have documented annual solar resources sufficient for the operation of the proposed solar collector(s).

 - (a) An affidavit or similar evidence of agreement between property owner and the principal solar energy system owner or operator demonstrating that the

principal solar energy system owner or operator has the permission of the property owner to apply for necessary permits for the placement, construction, operation and maintenance of the principal solar energy system.

- (b) Identification of the properties upon which the proposed principal solar energy system will be located, and identification of the properties adjacent thereto. The applicant must provide written notice of application to all property owners and tenants occupying property within two thousand five hundred (2500) feet of the boundaries of the property upon which the principal solar energy system shall be located. Proof of service of such notice by certified mail or notarized affidavit of hand delivery must be provided with the application.
- (c) A properly scaled site plan, prepared by a professional engineer or land surveyor licensed to practice in the Commonwealth of Pennsylvania, depicting and showing the planned location of the principal solar energy system, property lines, setback lines, adequate access roads and turnout locations for emergency vehicles, substations, electrical cabling from the solar collectors to the substations, ancillary equipment, buildings and structures, associated transmission lines, and layout of all structures within the geographic boundaries of any applicable setback.
- (d) Documents related to the decommissioning requirements specified in paragraph 14.60.A.14 above.
- (e) A copy of the application for those clearances and/or permits required by the Federal Aviation Administration, as well as demonstrated compliance prior to construction of any principal solar energy system of all applicable local, state and federal statutes, rules and regulations.
- (f) Documentation and/or proof demonstrating compliance with the National Pollution Discharge Elimination System (NPDES) regulations, if applicable.
- (g) Documentation and/or proof demonstrating compliance with the Pennsylvania Natural Diversity Index (PNDI), or any successor thereto, to protect biological species listed as endangered, threatened, or rare as listed by the Department of Conservation and Natural Resources (DCNR), Pennsylvania Game Commission, Pennsylvania Fish and Boat Commission, U.S. Fish and Wildlife Services, and species recommended by the Pennsylvania Biological Survey. In the event such agencies issue suggested guidelines that are not required or do not have the force and effect of law, such guidelines are hereby incorporated into this Ordinance, made a part hereof, and shall be binding so as to be required and binding, thereby having the full force and effect of law.
- (h) Documentation depicting any historic structure, district, site or resource listed in the state inventory of historic places maintained by the Pennsylvania

Historical and Museum Commission within a distance of five hundred (500) feet. Such documentation shall include the distance from each identified structure, resource, district or site to the nearest boundary of the principal solar energy system. Proof shall be submitted indicating that principal solar energy system owner or operator has made contact with the Pennsylvania Historical and Museum Commission to verify the existence and location of all structures, resources, districts or sites within the ambit of this provision.

- (i) Documentation and/or proof of compliance with all applicable local, state and federal statutes, rules and regulations pertaining to wetlands, if applicable.
- (j) Proof that applicant has complied with the applicable ordinances of any adjoining municipality, including but not limited to those ordinances governing principal solar energy systems, where a principal solar energy system owned or operated by an applicant is located in more than one (1) municipality.
- (k) The applicant shall provide evidence in the form of stamped plans certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania that the proposed principal solar energy system meets the glare standards required by paragraph 14.60.A.3 above.
- (l) When a principal solar energy system is proposed, a noise study will be performed and included in the application for a conditional use. The noise study will be performed by an independent noise study expert and paid for by the applicant. The study includes two requirements. First, in no case shall the noise exceed the level specified in paragraph 14.60.A.17. above. Second, any new broadband sound source is limited to raising noise levels no more than 5 dB(A) over the ambient baseline sound level. The ambient baseline is defined as the sound level that is exceeded 90% of the time, the L90 level. Second, "pure tones", defined here as an octave band, may be no greater than 3 dB(A) over the two adjacent octave bands. All these readings are measured at the participating landowner's property line. That is, if tonal noises are present, higher levels of broadband background noise are needed to effectively mask the tone(s). In this respect, a penalty for pure tones of 5 dB(A) is assessed. For example, if a principal solar energy system meets a sound pressure level standard of 45 dB(A), but produces a strong whistling, 5 dB(A) are subtracted from the standard. This forces the principal solar energy system to meet a standard of 40 dB(A).
- m. The applicant shall provide written confirmation that the public utility company to which the proposed principal solar energy system will be connected has been informed of the customer's intent to install a grid connected system and has approved of such connection.

3. Approval of a Conditional Use application by the Board of Supervisors to allow a principal solar energy system is not intended to guarantee a principal solar energy system owner and/or operator of adequate solar skyspace that is unobstructed from interference by structures and/or vegetation legally installed or maintained at any time on adjacent property of a non-participating landowner. If necessary, a principal solar energy system owner and/or operator must obtain any necessary solar skyspace easements necessary to guarantee unobstructed solar skyspace access by separate civil agreement(s) with adjacent property owner(s).

L ARTICLE IX – SUPPLEMENTARY REGULATIONS, is hereby amended to include the following revised section title:

SECTION 14.56 – OUTDOOR LIGHTING.

SECTION 2: Except only as amended, modified and changed herein, the Middlesex Township Zoning Ordinance as originally enacted and as previously amended shall remain in all other respects in full force and effect.

SECTION 3: If any section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this or the Middlesex Township Zoning Ordinance as a whole or any other section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or the Middlesex Township Zoning Ordinance.

SECTION 4: This Ordinance shall become effective in accordance with applicable law.

ORDAINED AND ENACTED this 6th day of July, 2011.

ATTEST:

TOWNSHIP OF MIDDLESEX

Lilun M. Gault
Township Secretary

By: [Signature]
Chairman, Board of Township Supervisors

(Township Seal)

