

**WOLF CREEK TOWNSHIP
MERCER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 1 of 2024
(ENERGY GENERATION FACILITY AND SYSTEMS ORDINANCE)**

AN ORDINANCE OF THE TOWNSHIP OF WOLF CREEK, MERCER COUNTY, PENNSYLVANIA, IN ACCORDANCE WITH THE PENNSYLVANIA MUNICIPAL PLANNING CODE (“MPC”) AMENDING PORTIONS OF THE WOLF CREEK TOWNSHIP ZONING ORDINANCE BY PROVIDING FOR ADDITIONAL DEFINITIONS IN ARTICLE XV, AMENDING ARTICLE IV, SECTION 402, CONDITIONAL USES. ALSO AMENDING ARTICLE IV, SECTION 401 “PERMITTED ACCESSORY USES. ALSO TO AMEND ARTICLE VI TO DEVELOP ADDITIONAL USE CRITERIA TO FURTHER DEFINE THE AMENDED USE CATEGORIES”. ALL AMENDMENTS RELATING TO ENERGY GENERATION FACILITIES AND SYSTEMS WITHIN THE TOWNSHIP.

WHEREAS, Wolf Creek Township promotes reasonable development of all legal uses of property for the benefit of Township residents and guests.

WHEREAS, in furtherance of its land use and responsibilities, the Township adopted its current Zoning Ordinance, June 14, 2004; and

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

WHEREAS, various forms of energy are increasing in use and the Supervisors desire to protect the health and safety, welfare and essential character of the community; and

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

SECTION 1. AMENDMENT OF ARTICLE XV. DEFINITIONS. Section 1501 to read as follows:

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

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

Energy Generation Facilities include facilities designed to operate in parallel with the electric distribution system generating energy requiring interconnection as regulated by the Pennsylvania Utilities Commission (PUC), AND larger facilities permitted through the regional transmission organization, PJM power transmission grid. All are subject to all State and Federal Energy Regulatory Commission (FERC) regulations as apply.

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

SECTION 2. AMENDMENT TO ARTICLE IV. SECTION 402, is AMENDED to add Energy Generation Facility (EGF) as a conditional use. Also, reference to Article VI, additional use criteria, will be added to the amended category as subsection 615 to contain the following criteria:

AN ENERGY GENERATION FACILITY (EGF) is permitted as a conditional use in all zoning areas, subject to the following:

- A. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met including but not limited to the Mercer County SALDO.
- B. To the extent applicable, all facilities shall comply with the Pennsylvania Uniform Construction Code and the regulations adopted by the Pennsylvania Department of Labor and Industry.
- C. All electrical components of facilities shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
- D. Facilities shall not display advertising, except for reasonable identification of the facility manufacturer, name of the site manager and emergency contact information.
- E. Preliminary and final land development approval is required for the construction of any energy generation facility when it is the principal use on a site or lot.
- F. The following project information shall be submitted to the Township for every proposed Energy Generation Facility (EGF).
 1. Project narrative including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions and respective manufacturers, and description of any ancillary facilities to the energy generation systems.

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

- E. Warning/safety signs indicating voltage shall be placed on energy equipment to the extent appropriate.
 - F. No advertising.
 - 5. All access lanes through the fenced area shall be a minimum of fifteen (15) feet wide in all such access lanes to provide clear access through the facility for emergency vehicles including but not limited to brush trucks and ambulances and must provide secondary gates to achieve the needed access to areas limited by fencing.
 - 6. The access lanes and fencing provided herein shall be shown on all final plans, both for recording and to share with local fire departments and emergency management departments.
- J. A decommissioning plan shall be submitted as part of the zoning permit application for such system and shall include, but not be limited to, the following:
- 1. A schedule and methods for the removal of such system.
 - 2. A plan for restoring the site to a condition similar to its conditions that existed immediately prior to the development of such system, including grading and vegetative stabilization.
 - 3. A performance bond, decommissioning trust or escrow account, or irrevocable letter of credit or a financial guarantee in an amount to be based upon the estimated cost of the decommissioning to insure completion of the decommissioning plan hereinafter referred to as "Security".
 - 4. Any obsolete or unused EGF and appurtenant structures shall be removed from the property within six (6) months of abandonment or decommissioning.
 - 5. The EGF owner is required to notify Wolf Creek Township, Mercer County, Pennsylvania, immediately upon cessation or abandonment of the operation. The EGF shall be presumed to be discontinued or abandoned if no power is generated by such system for a period of six (6) continuous months. Upon notification or determination by the Township that the EGF operation is ceased or abandoned, the decommissioning and restoration process of the associated properties shall be initiated in accordance with this Ordinance and other Federal and State regulations.
 - 6. At the time of issuance of the permit for the construction of the EGF, the owner shall engage an independent professional engineer licensed in the Commonwealth of Pennsylvania who is acceptable to the Township to conduct an appraisal to determine the approximate cost of decommissioning and dismantling the fully constructed EGF and removing the above-ground and below-ground (to the depth of not less than three (3) feet below-ground but in all cases at least to the depth of plow line) components of the energy generation system property (the Decommissioning costs) and to determine the costs of restoring and reclaiming the property under the assumption that the above-

ground components of the EGF have been removed from the property (“Restoration Costs”). The EGF owner shall be responsible for all costs and expenses of the appraisal and the decision of such engineer shall be binding and conclusive.

7. Prior to the commencement of construction, Wolf Creek Township, shall be named as the sole payee, obligee, or beneficiary, under the Security. Once the Security has been issued and delivered to Wolf Creek Township, the Security shall not lapse until the restoration activities are completed. Not less than sixty (60) days prior to any expiration of the Security, evidence of the renewal of such Security shall be provided to Wolf Creek Township. The EGF owner shall provide evidence of such Security, and the Security shall contain an agreement by the institutional provider that the Security will not be cancelled, or the Security changed, without at least sixty (60) days prior written notice to Wolf Creek Township. In no event shall the Security, be cancelled or changed by the EGF owner without the written consent of Wolf Creek Township. In any event, the EGF owner shall keep Security as is provided herein, in place containing the determined amount.
8. The amount of the Security shall be reviewed and reset immediately after completion of construction based on a new estimate by a professional engineer acceptable to the Township, licensed in the Commonwealth of Pennsylvania, and then updated every five (5) years thereafter until the site is discontinued and is fully restored to the conditions as prior to construction and use of the facility. The cost of the estimate shall be paid by owner.

SECTION 3: AMENDMENT TO ARTICLE IV, SECTION 401

PERMITTED ACCESSORY USES—Subsection 401 will be amended to add Energy Generation System (EGS) to the table 401.1 of Permitted Accessory Uses. In addition, a reference to Article VI, Additional Use Criteria, where subsection 616 will be added with the following criteria for Energy Generation Systems.

ENERGY GENERATION SYSTEM (EGS)—Energy Generation Systems are permitted in all zoning districts as an accessory use to any lawfully permitted principal use or accessory use on the same lot or parcel upon compliance with the following requirements.

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

- D. The Energy System shall not be placed in the established front yards and shall be subject to the same side and rear yard setbacks as other accessory structures. The required setbacks are measured from the lot line to the nearest part of the system. No part of the ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment or energy generation system equipment or parts. Property owners with 250 feet or more setbacks may submit an alternate plan.
- E. Notwithstanding the height limitations of the zoning district:
 - 1. For a building-mounted system installed on a sloped roof, the system must be installed at the same angle as the roof on which it is installed, with a maximum distance measure perpendicular to the roof of 18 inches between the roof and the highest edge of the system.
 - 2. For a building-mounted system installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
 - 3. For a building-mounted system installed on a flat roof, the highest point of the system shall not exceed six feet above the roof to which it is attached.
 - 4. Ground-mounted systems may not exceed 10 feet in height, measured from the tallest part of the structure when installed.
- F. The footprint of the ground-mounted energy system shall not exceed twenty five percent (25%) of the lot area of the property on which it is placed.
- G. Screening and Visibility
 - 1. Building-mounted systems mounted on a sloped roof shall not be required to be screened.
 - 2. Building-mounted systems mounted on a flat roof shall not be visible from the public right-of-way within a 50-foot radius of the property, at a level of five feet from the ground, in a similar manner as to any other rooftop, HVAC or mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the energy generation system is not visible from the public right-of-way within a 50-foot radius at a level of five feet from the ground.
 - 3. If a building-mounted system is to be installed on any building or structure that in nonconforming because it violates the height or setback restrictions of the zoning district in which it is located, the building mounted system does not extend above the peak or highest point of the roof to which it is mounted.
- H. Vacation, abandonment and/or decommissioning. The owner shall remove all energy generation systems, solar panels, and support structures, buildings, cabling, electrical

components, roads, and any other associated equipment within ninety (90) days of cessation of abandonment of the use.

SECTION 4—AMENDMENT TO ARTICLE VI—To create:

- A. Section 615—Additional criteria for Energy Generation Facilities (EGF)
- B. Section 616—Additional use criteria for Energy Generation Systems (EGS)

SECTION 5—AMENDMENT OF TABLE OF CONTENTS—The Table of Contents of the Wolf Creek Township Zoning Ordinance shall be amended to properly reflect the changes in definitions, section heading, pagination, and all other terminology added, removed or amended in this Ordinance.

SECTION 6—SEVERABILITY—The provisions of this Ordinance shall be servable and if any of the provisions hereof shall be held unconstitutional, void, or otherwise enforceable, such shall not affect the validity of any of the remaining provisions of said Ordinance.

SECTION 7—EFFECTIVE DATE—The provisions of this Ordinance shall become effective in five (5) days.

ORDAINED AND ENACTED THIS ____ DAY OF _____, 2024, AT A REGULAR MEETING OF THE WOLF CREEK TOWNSHIP BOARD OF SUPERVISORS.

ATTEST:

**SECRETARY
WOLF CREEK TOWNSHIP**

BOARD OF SUPERVISORS

