

Model Ordinance for Large-Scale Solar Electric Energy Facilities in PA

The attached sample model ordinances are intended for use as general templates for municipalities to review and adapt to their own particular needs. Please keep in mind that these sample model ordinances are merely models, and should be used only as a guide in developing or amending your own ordinances as they pertain to Large-Scale Solar Electric Energy Facilities. No assurances are made regarding the enforceability of any ordinance. Each municipality should confer with its own solicitor regarding such matters.

Regulations Affecting Large-Scale Solar Electric Energy Facilities in General

The Pennsylvania Municipalities Planning Code (MPC) provides two essential tools for use by municipalities to regulate land use within their borders; zoning ordinances (model 1), and subdivision & land development ordinances (SDLO) (model 2). In addition, municipalities may enact ordinances under their inherent “police” powers to protect public health, safety and welfare (model 3). All of these ordinances may be used, in one form or another, in guiding the development of large-scale solar electric energy facilities in Pennsylvania’s municipalities.

Zoning is purely optional on the part of municipalities, but is the sole means by which a municipality may establish specific areas of the municipality in which large-scale solar electric energy facilities may be permitted or prohibited. Subdivision and land development ordinances, while not appropriate for identifying the areas of the municipality in which such uses will or will not be permitted, do provide the municipality with a significant amount of control over such issues as set-backs, roads, layout of facilities etc.

**THE FOLLOWING MODEL ORDINANCES HAVE BEEN PREPARED TO COVER
THE ALTERNATIVE SCENARIOS LISTED ABOVE. THEY ARE INTENDED TO
SERVE AS MODELS AND SHOULD BE INDIVIDUALIZED TO MEET EACH
MUNICIPALITY’S SPECIFIC NEEDS.**

MODEL 1: Zoning

**ZONING ORDINANCE AMENDMENT FOR LARGE-SCALE SOLAR
ELECTRIC ENERGY FACILITIES**

The following sample amendment (or variation thereof) may be used where an existing zoning ordinance is to be amended to include provisions for siting of Large-Scale Solar Electric Energy facilities. Such an amendments must be adopted in accordance with Sections 609 and 610 of the MPC.

(Municipality) Ordinance No. _____.

AN ORDINANCE AMENDING ORDINANCE NO.
_____ OF *(MUNICIPALITY)* KNOWN AS THE
(MUNICIPALITY) ZONING ORDINANCE, PROVIDING
FOR THE REGULATION OF LARGE-SCALE SOLAR
ELECTRIC ENERGY FACILITIES.

(Municipality) hereby amends Ordinance No. _____ known as the *(Municipality)* Zoning Ordinance, by adding the following:

Section 1. Purpose

A Large-Scale Solar Electric Energy facility shall be considered a _____ {permitted use, conditional use or special exception} in the following zones _____. [select the appropriate zone].

(If a conditional use or special exception is selected, standard language and desired conditions should be added here.)

Section 2. Definitions:

Section _____ of Ordinance No. _____ is hereby amended to add the following definitions:

"Solar Electric Energy System" means the components and subsystems that, in combination, convert solar energy into electric energy suitable for use. The term includes but is not limited to photovoltaic and concentrated solar power systems.

"Solar Electric Energy Facility: means an electric generating facility, whose main purpose is to generate and supply electricity and consists of one or more Solar Electric Systems and other accessory structures and buildings, including substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Such facilities shall not include Solar Electric Energy Systems meant for residential or commercial use.

Section 3. Effective Date:

This act shall take effect in _____.

The PSATS Ordinance Database includes examples that townships can use when developing their own ordinances, job descriptions, and personnel regulations. Please keep in mind that these examples are merely an informational resource for you to use in developing your own ordinance, job description, or personnel regulation. PSATS does not guarantee the legal effectiveness of any of these examples, nor their appropriateness to any particular situation. These are for your judgment in consultation with your legal representative. PSATS encourages township officials to review and discuss all proposed ordinances, job descriptions, or personnel regulations with their township solicitor.

MODEL 2: Subdivision and Land Development

**SUBDIVISION AND LAND DEVELOPMENT
ORDINANCE FOR LARGE-SCALE SOLAR
FACILITIES**

The following sample amendment to a Subdivision and Land Development Ordinance (SALDO) provides a comprehensive set of standards for the erection, operation and decommissioning of Large-Scale Solar Electric Energy Facilities, permitting the municipality to meet its goal of encouraging alternative/renewable energy while minimizing negative impacts by the development of such energy generating facilities. The Subdivision and Land Development Ordinance amendment must be adopted in accordance with sections 504 and 506 of the Municipalities Planning Code.

(Municipality) Ordinance No. _____.

AN ORDINANCE AMENDING ORDINANCE NO. _____ of *(MUNICIPALITY)*.
KNOWN AS THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF
(MUNICIPALITY) TO PROVIDE FOR THE REGULATION OF LARGE SCALE SOLAR
ELECTRIC ENERGY FACILITIES.

Section 1. Title:

This Chapter shall be known as the Large-Scale Solar Electric Facility Ordinance for *(Municipality)*.

Section 2. Purpose:

The purpose of the Ordinance is to provide for the construction, installation, operation and decommissioning of Large-Scale Solar Electric Facilities in *(Municipality)*, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 3. Definitions:

A. "Applicant" is the Landowner or Developer, as those terms are defined in the Municipalities Planning Code and including their heirs, successors and assigns, who has filed an application for development of a Solar Electric Energy Facility under this Ordinance.

B. “Facility Owner” means the person or entity having an equity interest in the Solar Electric Energy Facility, including their heirs, successors and assigns.

C. “Operator” means the entity responsible for the day-to-day operation and maintenance of the Solar Electric Energy Facility.

D. “Solar Electric System” means the components and subsystems that, in combination, convert solar energy into electric energy suitable for use. The term includes but is not limited to photovoltaic and concentrated solar power systems.

E. “Solar Electric Energy Facility” means a Large-Scale Solar Electric Generating Facility, whose main purpose is to generate and supply electricity and consists of one or more Solar Electric Systems and other accessory structures and buildings, including substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. These facilities shall not include Solar Electric Energy Systems meant for residential or commercial use.

Section 4. Applicability:

A. This Ordinance applies to any Solar Electric Facility of 2 acres or more proposed to be constructed after the effective date of this Ordinance.

B. A Solar Electric Energy Facility constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modification or alteration to an existing Solar Electric Energy Facility that materially alters the size, type or components of the Solar Electric System shall require a permit under this Ordinance. Routine operation and maintenance or like-kind replacements do not require a permit.

Section 5. Land Development Requirements:

No land development plan providing for the construction or installation of a Solar Electric Energy Facility or addition of a Solar Electric System to an existing Solar Electric Energy Facility shall be approved unless such plan has complied with the requirements of this Chapter.

Section 6. Additional Land Development Plan Requirements:

A. Applications filed pursuant to this Ordinance shall comply with the Subdivision and Land Development Ordinance of (Municipality) and shall contain the following:

1. A narrative describing the proposed Solar Electric Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Solar Electric Energy Facility, the approximate number, representative types and height or range of heights of the panels or other Solar Electric System equipment to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of all ancillary facilities.

2. An affidavit or similar evidence of agreement between the Landowner of the real property on which the Solar Electric Energy Facility is to be located and the Facility Owner, demonstrating that the Facility Owner has permission of the Landowner to apply for necessary permits or approvals for construction and operation of the Solar Electric Facility ("Participating Landowner Agreement").

3. Identification of the properties or portions thereof on which the proposed Solar Electric Energy Facility will be located, and the properties adjacent to where the Solar Electric Energy Facility will be located.

4. A site plan showing the planned location of each Solar Electric Facility property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Solar Electric System to the substation(s), ancillary equipment, buildings and structures, including associated distribution and/or transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.

5. Documents related to decommissioning, including a schedule for decommissioning.

6. Other relevant studies, reports, certifications and approvals as may be provided by the Applicant or required by the (*Municipality*) to ensure compliance with this Ordinance.

B. Within thirty (30) business days after receipt of a land development application the (*Municipality*) will determine whether the application is complete and advise the applicant accordingly.

Section 7. Design and Construction:

A. Design Safety Certification: The design of the Solar Electric Energy System shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), IEEE, Solar Rating and Certification Corporation (SRCC), ETL, Florida Solar Energy Center (FSEC) or other similar certifying organizations.

B. Uniform Construction Code: The Solar Electric Energy Facility and the Solar Electric System shall be constructed to and comply with the Pennsylvania Uniform Construction Code, Act 45 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 Department of Labor and Industry under its regulatory authority.

C. Visual Appearance: Power Lines

1. Solar Electric Energy Facilities shall not be artificially lighted, except to the extent required by safety or by any applicable federal, state or local authority.

2. Solar Electric Energy Facilities shall not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the Facility Owner.

3. On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.

D. Warnings:

1. A Solar Electric Energy Facility shall be enclosed by a fence, barrier or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the property.

2. Clearly visible warning signs shall be placed on the fence, barrier or Solar Electric Energy Facility perimeter to inform individuals of potential voltage hazards.

Section 8. Setbacks:

A. Property lines: All Solar Electric Energy Systems shall be set back from the nearest property line a distance of not less than the maximum set back requirements for that zoning classification where the System is located. The setback distance shall be measured from the closest edge of the Solar Electric Energy System to the property line.

B. A Solar Electric Energy Facility shall be sited in such a way that it presents no threat to traffic or to public health and safety.

Section 9. Decommissioning:

A. The Facility Owner and Operator shall, at their expense, complete decommissioning of the Solar Electric Energy Facility or individual Solar Electric Systems within twelve (12) months after the end of the useful life of such Facility or System. A Solar Electric Energy Facility or System will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

B. Decommissioning shall include removal of all Solar Electric Energy Systems, buildings, cabling, electrical components, roads, foundations and any other associated facilities.

C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

Section 10. Remedies:

A. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance or a permit issued under this ordinance or cause another to violate or fail to comply, or take any action which is contrary to the terms of this Ordinance or a permit issued under this Ordinance.

B. If, after thirty (30) days from the date of the notice of violation, the (*Municipality*) determines, in its discretion, that the parties have not resolved the alleged violation, the (*Municipality*) may institute civil enforcement proceedings or any other remedy at law or inequity to ensure compliance as provided in Section _____ of Ordinance No. _____ of (*Municipality*) known as the (*Municipality*) Subdivision and Land Development Ordinance.

Section 11. Effective Date:

This ordinance shall take effect in _____.

The PSATS Ordinance Database includes examples that townships can use when developing their own ordinances, job descriptions, and personnel regulations. Please keep in mind that these examples are merely an informational resource for you to use in developing your own ordinance, job description, or personnel regulation. PSATS does not guarantee the legal effectiveness of any of these examples, nor their appropriateness to any particular situation. These are for your judgment in consultation with your legal representative. PSATS encourages township officials to review and discuss all proposed ordinances, job descriptions, or personnel regulations with their township solicitor.

MODEL 3: Police Powers

FREE STANDING ORDINANCE

The following sample ordinance provides a comprehensive set of standards for the erection, operation and decommissioning of Solar Electric Energy Facilities, permitting the municipality to meet its goal of encouraging alternative/renewable energy while minimizing negative impacts by the development of such energy generating facilities. This model is enacted under the “police” power authority of the municipality.

AN ORDINANCE REGULATING THE CONSTRUCTION, OPERATION AND DECOMMISSIONING OF LARGE-SCALE SOLAR ELECTRIC ENERGY FACILITIES

Section 1. Title:

This Chapter shall be known as the Large-Scale Solar Electric Facility Ordinance for *(Municipality)*.

Section 2. Purpose:

The purpose of the Ordinance is to provide for the construction, installation, operation and decommissioning of Large-Scale Solar Electric Energy Facilities in *(Municipality)*, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 3. Definitions:

A. “Applicant” is the Landowner or Developer and includes their heirs, successors and assigns, who has filed an application for development of a Solar Electric Energy Facility under this Ordinance.

B. “Facility Owner” means the person or entity having an equity interest in the Solar Electric Energy Facility, including their heirs, successors and assigns.

C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the Solar Electric Energy Facility.

D. "Solar Electric System" means the components and subsystems that, in combination, convert solar energy into electric energy suitable for use. The term includes but is not limited to photovoltaic and concentrated solar power systems.

E. "Solar Electric Energy Facility" means a Large-Scale Solar Electric Energy Facility, whose main purpose is to generate and supply electricity and consists of one or more Solar Electric Systems and other accessory structures and buildings, including substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. These facilities shall not include Solar Electric Energy Systems meant for residential or commercial use.

Section 4. Applicability:

A. This Ordinance applies to any Solar Electric Energy Facility of 2 acres or more proposed to be constructed after the effective date of the Ordinance.

B. A Solar Electric Energy Facility constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modification or alteration to an existing Solar Electric Energy Facility that materially alters the size, type or components of the Solar Electric System shall require a permit under this Ordinance. Routine operation and maintenance or like-kind replacements do not require a permit.

Section 5. Permit Requirements:

A. No Solar Electric Energy Facility, or addition of a Solar Electric System to an existing Solar Electric Energy Facility, shall be constructed or located within (*Municipality*) unless a permit has been issued to the Facility Owner or Operator approving construction of the Solar Electric Energy Facility under this Ordinance.

B. The permit application or amended permit application shall be accompanied with a fee in the amount of \$ _____.

C. Any physical modification to an existing and permitted Solar Electric Energy Facility that materially alters the size, type and number of Solar Electric Systems or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

Section 6. Permit Application:

A. The permit application shall demonstrate that the proposed Solar Electric Energy Facility will comply with this Ordinance.

B. Among other things, the application shall contain the following:

1. A narrative describing the proposed Solar Electric Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Solar Electric Energy Facility, the approximate number, representative types and height or range of heights of the panels or other Solar Electric System equipment to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of all ancillary facilities.

2. An affidavit or similar evidence of agreement between the Landowner of the real property on which the Solar Electric Energy Facility is to be located and the Facility Owner, demonstrating that the Facility Owner has permission of the Landowner to apply for necessary permits or approvals for construction and operation of the Solar Electric Energy Facility ("Participating Landowner Agreement").

3. Identification of the properties or portions thereof on which the proposed Solar Electric Energy Facility will be located, and the properties adjacent to where the Solar Electric Energy Facility will be located.

4. A site plan showing the planned location of each Solar Electric Energy Facility property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Solar Electric System to the substation(s), ancillary equipment, buildings and structures, including associated distribution and/or transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.

5. Documents related to decommissioning, including a schedule for decommissioning.

6. Other relevant studies, reports, certifications and approvals as may be provided by the Applicant or required by the (*Municipality*) to ensure compliance with this Ordinance.

C. Within thirty (30) days after receipt of a permit application, the (*Municipality*) will determine whether the application is complete and advise the applicant accordingly.

D. Within sixty (60) days of a completeness determination, the (*Municipality*) will schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.

E. Within one hundred and twenty (120) days of a completeness determination, or within forty-five (45) days after the close of any hearing, whichever is later, the (*Municipality*) will make a decision whether to issue or deny the permit application.

F. Throughout the permit process, the applicant shall promptly notify (*Municipality*) of any changes to the information contained in the permit application.

G. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

Section 7. Design and Construction:

A. Design Safety Certification: The design of the Solar Electric Energy System shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), IEEE, Solar Rating and Certification Corporation (SRCC), ETL, Florida Solar Energy Center (FSEC) or other similar certifying organizations.

B. Uniform Construction Code: The Solar Electric Energy Facility and the Solar Electric System shall be constructed to and comply with the Pennsylvania Uniform Construction Code, Act 45 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 Department of Labor and Industry under its regulatory authority.

C. Visual Appearance: Power Lines:

1. Solar Electric Energy Facilities shall not be artificially lighted, except to the extent required by safety or by any applicable federal, state or local authority.

2. Solar Electric Energy Facilities shall not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the Facility Owner.

3. On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.

D. Warnings:

1. A Solar Electric Energy Facility shall be enclosed by a fence, barrier or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the property.

3. Clearly visible warning signs shall be placed on the fence, barrier or Solar Electric Energy Facility perimeter to inform individuals of potential voltage hazards.

Section 8. Setbacks:

A. Property lines: All Solar Electric Energy Systems shall be located _____ feet from all property lines where the System is located. These distances shall be measured from the closest edge of the Solar Electric Energy System to the property line.

B. A Solar Electric Energy Facility shall be sited in such a way that it presents no threat to traffic or to public health and safety.

Section 9. Decommissioning:

A. The Facility Owner and Operator shall, at their expense, complete decommissioning of the Solar Electric Energy Facility or individual Solar Electric System within twelve (12) months after the end of the useful life of such Facility or System. A Solar Electric Energy Facility or System will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

B. Decommissioning shall include removal of all Solar Electric Energy Systems, buildings, cabling, electrical components, roads, foundations and any other associated facilities.

C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

Section 10. Remedies:

A. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance or a permit issued under this ordinance or cause another to violate or fail to comply, or take any action which is contrary to the terms of this Ordinance or a permit issued under this Ordinance.

B. If, after thirty (30) days from the date of the notice of violation, the (*Municipality*) determines, in its discretion, that the parties have not resolved the alleged violation, the (*Municipality*) may institute civil enforcement proceedings or any other remedy at law or inequity to ensure compliance as provided in Section ____ of Ordinance No. ____ of (*Municipality*) known as the (*Municipality*) Subdivision and Land Development Ordinance.

Section 11. Effective Date:

This ordinance shall take effect in _____.

The PSATS Ordinance Database includes examples that townships can use when developing their own ordinances, job descriptions, and personnel regulations. Please keep in mind that these examples are merely an informational resource for you to use in developing your own ordinance, job description, or personnel regulation. PSATS does not guarantee the legal effectiveness of any of these examples, nor their appropriateness to any particular situation. These are for your judgment in consultation with your legal representative. PSATS encourages township officials to review and discuss all proposed ordinances, job descriptions, or personnel regulations with their township solicitor.