

DAMASCUS TOWNSHIP ZONING ORDINANCE PROPOSED AMENDMENT 2023
ALTERNATIVE ENERGY SYSTEMS

**DAMASCUS TOWNSHIP
WAYNE COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF DAMASCUS
TOWNSHIP, WAYNE COUNTY, PENNSYLVANIA TO CLARIFY THE
ALTERNATIVE ENERGY SYSTEMS STANDARDS

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Damascus Township, Wayne County, Pennsylvania, by the authority of and pursuant to Act of 1968, P.L. 805, No 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the “Pennsylvania Municipalities Planning Code,” the Damascus Township Zoning Ordinance of August 4, 1997, as follows:

AMEND the Zoning Ordinance of Damascus Township by modifying Article II, Definitions, by clarifying definitions for alternative energy systems as follows:

The following definitions shall be deleted from Article II – Definitions:

Drip Line

Solar Energy System (Medium)

Solar Energy System (Large)

The following definitions shall be added to Article II – Definitions:

Drip Line: The outermost edge of a roof including eaves, overhangs and gutters, and the lower edge of a PV panel.

Solar Energy System (Large); A solar energy System with a rated capacity greater than thirty-five (35) kilowatts per hour.

The following shall be amended in Article IV – Supplementary Regulations:

AMEND: 433.5. Design and Installation Standards.

Subsection B. shall be deleted and replaced with the following:

433.5. Design and Installation Standards.

B. Wind Energy Systems

1. Wind Energy Systems (Small) shall be installed in compliance with manufacturers specifications.
2. Wind Energy Systems (Large)
 - a. shall be installed in compliance with manufacturers specifications.
 - b. shall comply with Section 428 (Wind Farms) and other applicable sections of this Ordinance.

AMEND: 433.6. Design and Installation Standards.

Delete Section 433.6. Setback Requirements for Solar Energy Systems and replace with the following:

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433.6. Design and Installation Standards.

- A. Ground-mounted Solar Energy Systems not exceeding 35 kW per hour output are permitted at the side and/or rear of the principal permitted structure(s) only. No ground-mounted systems shall be placed in front of any principal permitted structure (side of the principal permitted structure facing any road). System components shall not be closer than thirty (30) feet from any side or rear property line, excluding required fencing and/or screening. System components shall not be placed closer than fifty (50) feet from any environmentally sensitive areas, including but not limited to wetlands, ponds and streams.
- B. Ground-mounted Solar Energy Systems exceeding 35 kW per hour output are permitted at the side and/or rear of the principal permitted structure(s) only. System components shall not be closer than three hundred (300) feet from any residential structure, and shall not be closer than one hundred (100) feet from any public road right of way. System components shall not be closer than one hundred (100) feet from any side or rear property line, excluding required fencing and/or screening. System components and earth disturbance shall not be closer than fifty (50) feet from any environmentally sensitive areas, including but not limited to, wetlands, ponds and streams, so long as it can be shown that the project is in compliance with the National Pollutant Discharge Elimination System (NPDES) regulations if applicable. In any case of conflicting setback requirements, the more restrictive setback distance shall apply.

The required setbacks are measured from the property line, public road right-of-way, or residential building 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 of solar PV related equipment or parts. Required fencing and/or vegetative screening shall not be considered as part of the system for the purpose of setbacks.

AMEND: 433.8. Screening and Visibility

Delete Section 433.8. Screening and Visibility and replace with the following:

433.8. Screening and Visibility

- A. Solar Energy Systems that are building-mounted or roof-mounted shall not be required to be screened.
- B. Ground-mounted Solar Energy Systems:
 - 1. Project plans shall specify proposed type, species, size, and planting layout of screening vegetation, subject to approval of the Board of Supervisors.
 - 2. Vegetative screening shall be deer-resistant.
 - 3. The Wayne Conservation District may be consulted for recommendations for species to be planted.

AMEND: 433.9. Impervious Property Coverage Restrictions

Delete Section 433.9. Impervious Property Coverage Restrictions and replace with the following:

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433.9. Impervious And Property Coverage Restrictions

- A. The surface area of any ground-mounted system, regardless of the mounted angle of any portion of the system, shall be considered impervious surface and shall be calculated as part of the property lot coverage limitations for the zoning district. If the ground-mounted system is mounted above existing impervious surface, it shall not be calculated as part of the property lot coverage limitations for the zoning district.
- B. Total lot coverage of the system shall not exceed 40% (forty percent) of the property, including any other improvements, including but not limited to ponds, pools, streams, houses, garages, sheds, barns, impervious barnyards, driveways and any other impervious surfaces.
- C. Cutting of trees and/or woodlands shall not exceed 25% of the total ground cover of the property.

AMEND: 433.12. Performance Requirements

Delete Section 433.12. Performance Requirements and replace with the following:

433.12. Performance Requirements

- A. All Solar Energy Systems that exceed thirty-five (35 kW) per hour output are subject to compliance with applicable performance standards detailed in Sections 405.2, 405.3, 405.4, 405.5, 405.6, 405.8, 405.9, and 405.10 in this Zoning Ordinance. In addition, vegetative screening shall be installed as determined or approved by the Board of Supervisors. Noise abatement measures shall be required where a solar facility that exceeds thirty-five (35 kW) per hour output when the solar facility is located within five hundred (500) feet of any residence, school, or religious facility.
- B. The entire compound shall be enclosed by a security fence at least eight (8) feet in height to prevent public exposure to high voltage electricity, high temperatures and other similar safety hazards.
- C. No system shall be allowed to produce less than seventy-five (75) percent of initial output during optimum solar conditions for the area. A maintenance program shall be submitted as part of any application to ensure safety, proper operation, and maximum output of the system. When the output of the system falls below seventy-five (75) percent of initial productivity, the system shall be repaired, replaced or removed in its entirety.

AMEND: 433.13. Inspection, Safety and Removal of Solar Energy Systems (Large)

Delete Section 433.13. Inspection, Safety and Removal of Solar Energy Systems (Large) and replace with the following:

433.13. Inspection, Safety and Removal of Solar Energy Systems (Large)

Damascus Township reserves the right to inspect Solar Energy Systems that exceed thirty-five (35 kW) per hour for building code or fire code compliance and safety.

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- A. If upon inspection Damascus Township determines that a fire code or building code violation exists, or that the system otherwise poses a safety hazard to persons or property, the Township may order the owner/property owner/land owner/facility owner/operator to repair or remove the system within a reasonable time not to exceed six (6) months. Such an order shall be in writing, shall offer the option to repair, shall specify the code violation or safety hazard found and shall notify the owner/property owner/land owner/facility owner/operator of his or her right to appeal such determination in writing within thirty (30) days.
- B. If an owner/property owner/land owner/facility owner/operator fails to repair or remove a Solar Energy System as ordered, and any appeal rights have been exhausted, Damascus Township shall have the legal right to enter the property, remove the system and charge the owner/property owner/land owner/facility owner/operator for all costs and expenses of removal, including reasonable attorney's fees or pursue other legal action to have the system removed at the owner/property owner/land owner/facility owner/operator's expense.
- C. In addition to any other available remedies, any unpaid costs resulting from the Township's removal of a vacated abandoned or de-commissioned Solar Energy System shall constitute a lien upon the lot/parcel/property against which the costs were charged. Legal counsel of the Township shall institute appropriate action for the recovery of such cost, plus attorney's fees, including, but not limited to filing of municipal claims pursuant to 53 P.S. § 7107, et seq., for the cost of such work, 6% interest per annum, plus a penalty of 5% of the amount due plus attorney's fees and costs incurred by the Township in connection with the removal work and the filing of the Township's claim.
- D. An irrevocable letter of credit, or other financial guarantee approved by the Township Solicitor, shall be required for the safe and proper removal of all components of the facility, to include proper handling of toxic materials, and to mitigate any environmental hazards due to damage or structural failure of the system, and to reclaim the land. The amount of the irrevocable letter of credit or other financial guarantee shall be determined by the Township Solicitor prior to issuance of any permit.

AMEND: 433.14. Permit Requirements

Delete Section 433.14. Permit Requirements and replace with the following:

433.14. Permit Requirements

No construction or installation of any parts or sections of an alternative energy system shall begin unless and until any and all required permit or permits have been issued by Damascus Township.

ADD: Section 433.15. Design Requirements

433.15. Design Requirements

Any ground-mounted systems exceeding thirty-five (35 kW) per hour output shall be provided with access to a public road at an approved driveway location, with a permanent

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all-weather two-lane roadway with turn-around(s) and sufficient parking and/or operating spaces for emergency vehicles and normal maintenance vehicles.

ADD: Section 433.16. Application Procedures

433.16. Application Procedures

Solar Voltaic Energy System Conditional Use Applications (ground-mounted systems exceeding thirty-five (35 kW) per hour output) shall be made with forms provided by the Township and shall include, at a minimum, the following information:

- Applicant Name & Mailing Address, e-mail & Phone number
- Site Location (9-1-1 address)
- Tax map parcel number
- Total tract Acreage
- Property Owner's Name & Mailing Address, e-mail & Phone Number
- Present Use(s) of Property
- Proposed System Output in kW AC
- Proposed Number of PV panels
- Is Battery Storage System proposed
- Roof-mounted array or ground-mounted array
- If Ground-mounted indicate acreage total inside fences
- Existing Ground Cover
- Total area of ground covered with ground-mounted PV system.
- Type of array, i.e. Fixed, Tracking, AgriVoltaic
- Support structure description
- Max. Height of array above ground
- Panel Manufacturer name and address
- Type of Fencing and height proposed
- Notarized signature of both the property owner and the applicant

Application plans for ground-mounted systems exceeding 35 kW output shall meet the following requirements and shall include the following information:

- A. A site plan shall be prepared by the applicant which shall include property lines, buildings, proposed facilities, access drives, parking areas, and residential structures within five hundred (500) feet of the property. The plan shall also include a screening plan. The Plan shall be clearly and legibly drawn, and shall be sized not less than 11 " x 17" nor more than 24" x 36" in size and may be multiple numbered sheets as needed. In addition, the plan set shall also be provided to the Township in a digital .pdf format.
- B. Nine (9) copies of a Solar System Conditional Use Application and Plans shall be required for proposed ground-mounted systems exceeding 35 kW output; and the copies shall be submitted to the Damascus Township Zoning Officer along with the required fees as specified in the most current Schedule of Fees adopted by resolution by the Board of Supervisors.

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- C. The application and plans shall be distributed to the Township Planning Commission, Township Engineer and the Township Stormwater Management Officer, and the Wayne County Department of Planning for reviews.
- D. The Plans shall include, at a minimum, all the items listed in Section 608.4.E of this Ordinance.
- E. Additionally, the plans shall include the following information and documentation:
 - a. Proposed name of the project. This name shall not duplicate in spelling or pronunciation of any recorded subdivision within Wayne County.
 - b. The names and addresses of the landowner and the developer shall also be provided.
 - c. Location by municipality, County and State. The plan shall also include tax map numbers for affected and adjacent parcels and a 1" = 2000' location map.
 - d. North point, date and graphic scale.
 - e. Boundaries of total tract and acreage contained within it plus deed book references.
 - f. Boundaries of project parcel including all systems and associated facilities and acreage contained within it.
 - g. Locations, names and widths of rights-of-way of all streets, widths of Utility rights-of-way, parks and public grounds, permanent buildings in, or adjacent to the subject property which will have an effect on the design, and all open space easements.
 - h. Approximate locations of existing sanitary sewers, public water mains, storm sewers, overhead and underground electric power and transmission lines, overhead and underground telephone lines, overhead and underground cable television lines, gas lines, culvert pipes and drainage ditches with direction of flow and pressure or hydraulic capacity, and any other items above or below ground.
 - i. Names of owners of abutting properties, and lines showing where they intersect.
 - j. Existing contours at intervals of at least every two feet. Available Wayne County GIS mapping may suffice for the basis of this requirement.
 - k. Proposed layout of streets, alleys, access roads and other rights-of-way, including widths and, if necessary to name, proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Township Road Ordinance, and shall include profiles, cross-sections, and preliminary designs for stormwater management, swales, bridges and culverts.
 - l. The proposed layout of the photovoltaic arrays, acreage and approximate dimensions of the array system.
 - m. Land area under lease, with covenants and restrictions shall be shown and marked as such.
 - n. Setback lines for solar voltaic systems as specified in Section 433.6 B of this Ordinance.
 - o. All drainage easements shall be shown and marked as such.
 - p. Approximate final grades in areas of cut or fill shall be shown.
 - q. Any areas designated for access, turnarounds and parking shall be shown.
 - r. Location of any water wells or springs within three hundred (300) feet of the project area.

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- s. The developer shall present a letter from each utility company servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision.
- t. EIS (Environmental Impact Study) – including potential contamination by damaged solar voltaic panels, and metal posts in the ground.
- u. NPDES (National Pollutant Discharge Elimination System) Permit Application for earth disturbance over 1 acre for the entire project, including stormwater management plan and erosion and sediment control plan.
- v. PNDI (Pennsylvania Natural Diversity Inventory) responses
- w. Approved applications to Damascus Township and/or the Pennsylvania Department of Transportation for street encroachment or highway occupancy permit. Permit numbers shall be shown on the plan at the access points.
- x. Floodplain boundaries, if applicable, and evidence of compliance with Township, State, and Federal floodplain management requirements.
- y. Wetland boundaries, if applicable, and evidence of compliance with Township, State and Federal rules and regulations pertaining to such.
- z. Emergency Action Plan, including damage to system components, containment of toxic chemicals in an instance of contamination as a result of damage to PV panels, access by emergency vehicles and personnel.
- aa. Training Plan and Specialized Equipment for Emergency Responders:
 - i. A Training Session(s) shall be initiated no more than six (6) weeks prior to the completion of the facility, in addition to a “walk-through” training within two (2) weeks after
 - ii. the completion of the facility,
 - iii. The applicant shall provide a training plan curriculum and schedule for training emergency responders in safety precautions while operating within any area of the facility as part of this application
 - iv. The applicant shall provide a list of specialized equipment required for safe emergency operation at the facility as part of this application
 - v. The applicant shall provide a schedule of delivery of specialized safety equipment to first-due emergency responders at no cost to the Township or the responding agencies.
- bb. Proposed Maintenance Program to include the following:
 - i. Vegetation control in and around the compound
 - ii. Stormwater control facilities
 - iii. Security systems
 - iv. Fencing
 - v. Vegetative screening
 - vi. Winter plowing
 - vii. Panel & support structures, wiring

Applicants shall present the application, plans and supporting documents for a Pre-Submission Review by Township Officials to verify the completeness of the submission before acceptance of any application for any Conditional Use, Major Subdivision, or Land Development Plan. Any submission determined to be incomplete shall not be accepted as complete application and shall not be processed. Review fees as established by the Board of Supervisors by Resolution shall apply for each Pre-Submission Review and re-review.

SECTION XVII – SEVERABILITY

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All clauses and provisions of this Ordinance are severable and if any clause or provision should be declared invalid, illegal or unconstitutional for any reason whatsoever, such decision shall not affect or impair the remaining clauses or provisions. It is hereby declared to be the intent that this Ordinance would have been adopted and such unconstitutional, illegal or invalid clauses or provisions been included herein and the clauses and provisions are declared to be severable.

SECTION XVIII – REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION XIX - EFFECTIVE DATE

This Ordinance shall be effective immediately upon enactment hereof.

DULY ENACTED AND ORDAINED this _____ day of _____, 20____, by the Supervisors of Damascus Township, County of Wayne and Commonwealth of Pennsylvania, in lawful session duly assembled.

DAMASCUS TOWNSHIP, Wayne County, Pa.

BY:

Joseph K. Canfield, Chairman

Scott Rutledge, Vice-Chairman

Steven R. Adams, Supervisor

ATTEST: _____

Secretary