

BOROUGH OF ST. CLAIR
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 446

AN ORDINANCE OF THE BOROUGH OF ST. CLAIR,
SCHUYLKILL COUNTY, PENNSYLVANIA, REGULATING
SOLAR ENERGY SYSTEMS WITHIN THE BOROUGH.

The Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania (the "Borough"), hereby enacts and ordains as follows:

WHEREAS, Section 1201 of the Borough Code, 53 P.S. §46201, entitled "General Powers", authorizes the Borough to make and adopt ordinances necessary for the proper management, care and control of the Borough, and the maintenance of the health and welfare of the Borough and its citizens; and

WHEREAS, Section 1202 of the Borough Code, 53 P.S. §46202, entitled "Specific Powers", authorizes the Borough to adopt ordinances to secure the safety of persons or property within the Borough; and

WHEREAS, the Borough seeks to promote the general health, safety and welfare of the community by adopting an Ordinance providing for access to and use of solar energy systems.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY the Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, in accordance with the general powers permitted by the Borough Code (53 P.S. §46201, et seq.) and the statutes noted above, as follows:

Section 101. Title.

This Ordinance shall be known as the "Solar Energy Ordinance".

Section 102. Citation

This Ordinance may be cited as the "Solar Energy Ordinance".

Section 103. Purpose.

The purpose of this Ordinance is to set forth requirements for solar energy systems for both commercial and residential properties..

Section 104. Definitions.

The following words, terms and phrases when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory Solar Energy System: An area of land or other area used for a solar collection system 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 arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

Glare: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Principle Solar Energy System: An area of land or other area used for a solar collection 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.

Solar Easement: A solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

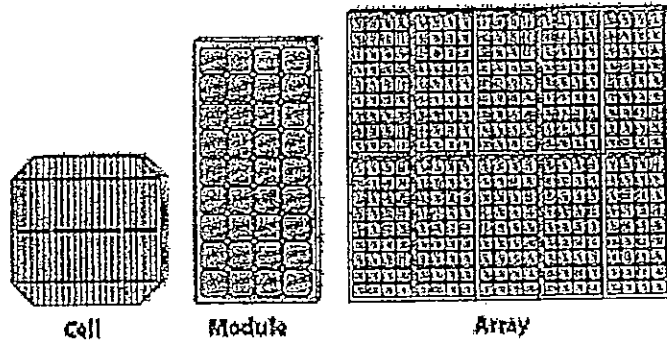
Solar Energy: Radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar Panel: That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

Solar Related Equipment: Items including a solar photovoltaic cell, module, 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.

1. Solar Array: A grouping of multiple solar modules with purpose of harvesting solar energy.
2. Solar Cell: The smallest basic solar electric device which generates electricity when exposed to light.

3. Solar Module: A grouping of solar cells with the purpose of harvesting solar energy.



Section 105. Accessory Solar Energy Systems (ASES)

Section 105.1. Regulations Applicable to All Accessory Solar Energy Systems:

Section 105.1.1. ASES that have a maximum power rating of not more than (10kW, 15kW, XX) shall be permitted as a use by right in all zoning districts. ASES that have a power rating more than (10kW, 15kW, XX) shall comply with the requirements of Section 106 – Principal Solar Energy Systems.

Section 105.1.2. Exemptions

Section 105.1.2.1. ASES with an aggregate collection and/or focusing area of (10, 100, XX) square feet or less are exempt from this Ordinance.

Section 105.1.2.2. ASES 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 ASES whether or not existing prior to the effective date of this Section that materially alters the ASES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

Section 105.1.3. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Borough, 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.

Under completion of installation, the ASES shall be maintained in good working order in accordance with the standards of the Borough codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by the Borough in accordance with applicable ordinances.

Section 105.1.4. ASES installers must certify they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

- a. Is certified by the North American Board of Certified Energy Practitioners (NABCEP).
- b. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (IS PQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.
- c. For residential applications, a registered home improvement contractor with the Attorney General's Office.

Section 105.1.5. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

Section 105.1.6. The owner of an ASES shall provide the Borough written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

Section 105.1.7. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

Section 105.1.8. Glare

Section 105.1.8.1 All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

Section 105.1.8.2. 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

Section 105.1.9. Solar Easements

Section 105.1.9.1. Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements.

Section 105.1.9.2. Any such easement 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 solar easement shall include, but not be limited to:

i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

ii. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

iii. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

iv. Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

Section 105.1.9.3. If required, an ASSES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

Section 105.1.10. Prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

Section 105.1.11. Decommissioning

Section 105.1.11.1. Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.

Section 105.1.11.2. The ASES 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.

Section 105.1.11.3. The ASES owner shall, at the request of the Borough, provide information concerning the amount of energy generated by the ASES in the last 12 months.

Section 105.1.12. Permit Requirements

Section 105.1.12.1. Zoning/building permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

Section 105.1.12.2. The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.

Section 105.1.12.3. The ASES must be properly maintained 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 owner of the ASES to conform or to remove the ASES.

Section 105.2. Roof-Mounted and Wall-Mounted Accessory Solar Energy Systems:

Section 105.2.1. The total height of a building with an ASES shall not exceed by more than (1 foot, 3 feet, XX) above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

Section 105.2.2. Wall-mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

Section 105.2.3. Solar panels shall not extend beyond any portion of the roof edge.

Section 105.2.4. Roof-mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.

Section 105.2.5. For roof and wall-mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Borough that the roof or wall is capable of holding the load imposed on the structure.

Section 105.3. Ground-Mounted Accessory Solar Energy Systems:

Section 105.3.1. Setbacks

Section 105.3.1.1. Ground-mounted ASES are prohibited in front yards, between the principal building and the public street.

Section 105.3.1.2. A ground-mounted ASES may be located in the portion of the yard in front of the principal building and outside of the required front yard provided that vegetative screening is provided.

Section 105.3.1.3. The Borough may authorize the installation of a ground-mounted ASES in front of the principal building, outside the required front yard, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.

Section 105.3.2. Height

Section 105.3.2.1. Freestanding ground-mounted ASES shall not exceed the maximum accessory structure height in the underlying zoning district.

Section 105.3.2.2. The following components of a ground-mounted ASES shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district;

- i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
- ii. All mechanical equipment of the system including any structure for batteries or storage cells.

Section 105.3.3. Screening

Section 105.3.3.1. Ground-mounted ASES shall be screened for any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence meeting requirements of the Zoning Ordinance may be used.

Section 105.3.4. Appropriate safety/warning signage concerning voltage shall be placed at ground-mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

Section 105.3.5. Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

Section 106. Principal Solar Energy Systems (PSES)

Section 106.1. Regulations Applicable to All Principal Solar Energy Systems:

Section 106.1.1. PSES shall be permitted by right/special exception/conditional use in the XXXX zoning district(s).

Section 106.1.2. Exemptions

Section 106.1.2.1. PSES 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 PSES, whether or not existing prior to the effective date of this Section that materially alters the PSES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

Section 106.1.3. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Borough 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.

Section 106.1.4. PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

- a. Is certified by the North American Board of Certified Energy Practitioners (NABCEP).
- B. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

Section 106.1.5. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

Section 106.1.6. The owner of a PSES shall provide the Borough written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

Section 106.1.7. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations.

Section 106.1.8. Glare

Section 106.1.8.1. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

Section 106.1.8.2. 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.

Section 106.1.9. A noise study will be performed and included in the application. The noise study will be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed (45, 50, XX) dBA, as measured at the property line.

Section 106.1.10. No trees or other landscaping otherwise required by the municipal ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

Section 106.1.11. The PSES 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 Borough. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

Section 106.1.12. Decommissioning

Section 106.1.12.1. The PSES owner is required to notify the Borough immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.

Section 106.1.12.2. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar-related equipment or appurtenances related thereto, including, but not limited to, buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. If the owner fails to dismantle and/or remove the PSES within the established timeframes, the municipality may complete the decommissioning at the owner's expense.

Section 106.1.12.3. At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to the Borough to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

Section 106.1.13. Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

Section 106.1.14. Solar Easements

Section 106.1.14.1. Where a subdivision or land development proposes a PSES, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements.

Section 106.1.14.2. 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 solar easement shall include, but not be limited to:

i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

ii. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

iii. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

iv. Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

Section 106.1.14.3. If necessary, a PSES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

Section 106.1.15. Permit Requirements

Section 106.1.15.1. PSES shall comply with the Borough subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.

Section 106.1.15.2. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.

Section 106.2. Ground-Mounted Principal Solar Energy Systems:

Section 106.2.1. Minimum lot size

Section 106.2.1.1. The PSES shall meet the lot size requirements of the underlying zoning district.

Section 106.2.2. Setbacks

Section 106.2.2.1. PSES shall comply with the setbacks of the underlying zoning districts for principal structures.

Section 106.2.3. Height

Section 106.2.3.1. Ground-mounted PSES shall comply with the building height restrictions for principal structures of the underlying zoning district.

Section 106.2.4. Impervious Coverage

Section 106.2.4.1. The surface area of the arrays of a ground-mounted PSES, regardless of the mounted angle of any solar panels, shall be considered impervious calculated in the lot coverage of the lot on which the system is located.

Section 106.2.4.2. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the municipal stormwater management regulations.

Section 106.2.4.3. PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for stormwater management.

Section 106.2.5. Ground-mounted PSES shall be screened from adjoining residential uses or zones according to the standards found in this Ordinance.

Section 106.2.6. In Agricultural Zoning Districts, no more than 50 percent of the entire area for development shall consist of Class I and Class II prime agricultural soils.

Section 106.2.7. Ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

Section 106.2.8. Security

Section 106.2.8.1. All ground-mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.

Section 106.2.8.2. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.

Section 106.2.9. Access

Section 106.2.9.1. At a minimum, a 25' wide access road must be provided from a state or borough roadway into the site.

Section 106.2.9.2. At a minimum, a 20' wide cartway shall be provided between the solar arrays to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

Section 106.2.9.3. Access to the PSES shall comply with the municipal access requirements in the Subdivision and Land Development Ordinance.

Section 106.2.10. The ground-mounted PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

Section 106.2.11. If a ground-mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

Section 106.3. Roof and Wall-Mounted Principal Solar Energy Systems:

Section 106.3.1. For roof and wall-mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Borough that the roof or wall is capable of holding the load imposed on the structure.

Section 106.3.2. PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

Section 107. Severability.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of St. Clair Borough Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 108. Repealer/Savings.


The provisions of any prior ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Nothing contained in this Ordinance shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred, or any cause of action existing prior the enactment of this Ordinance.

Section 109. Effective Date.

This Ordinance shall become effective immediately after the adoption hereof.

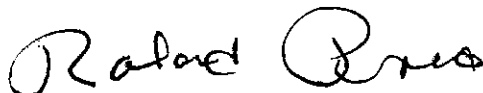
DULY ENACTED AND ORDAINED by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, this 1st day of AUGUST, 2023, in lawful session duly assembled.

ST. CLAIR BOROUGH



WILLIAM M. DEMPSEY
Council President

ATTEST:



ROLAND PRICE, JR.
Borough Secretary

Approved by me this 1st day of AUGUST, 2023.



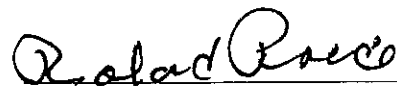
RICHARD E. TOMKO, Mayor

IN RE: AN ORDINANCE OF THE BOROUGH OF ST. CLAIR, SCHUYLKILL COUNTY, PENNSYLVANIA, REGULATING SOLAR ENERGY SYSTEMS WITHIN THE BOROUGH.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, on the 1ST day of AUGUST, 2023.

SEAL



Roland Price, Jr., Secretary
St. Clair Municipal Building
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St. Clair, PA 17970
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