COPY

LEBOEUF TOWNSHIP
ERIE COUNTY, PENNSYLVANIA

AN ORDINANCE OF LEBOEUF TOWNSHIP, ERIE COUNTY, PENNSYLVANIA, AMENDING TOWNSHIP ORDINANCE NO. 1 OF 2018, COLLOQUIALLY KNOWN AS THE LEBOEUF TOWNSHIP ZONING ORDINANCE, BY AMENDING SECTION 202, ENTITLED DEFINITIONS, TO MODIFY THE DEFINITION OF RENTAL SERVICES AND ADD A DEFINITION FOR WEDDING BARNS; AMENDING SECTION 302; ENTITLED ZONING PERMITS, TO PROVIDE FOR ANNUAL PERMIT RENEWAL; AMENDING SECTION 308, ENTITLED ZONING HEARING BOARD, TO PROVIDE FOR SHARING OF COURT REPORTER FEES; AMENDING SECTION 505, ENTITLED DISTRICT USE TABLE, TO PERMIT WEDDING BARNS, ASES, AND PSES, IN CERTAIN ZONING DISTRICTS; AMENDING SECTION 704, ENTITLED STORAGE, TO ADD PROVISIONS REGARDING RECREATIONAL VEHICLES AND EQUIPMENT; AMENDING SECTION 1002, ENTITLED SPECIFIC CRITERIA APPLICABLE TO IDENTIFIED USES, TO PROVIDE FOR WEDDING BARNS; ADDING SECTION 1103 ENTITLED SOLAR ENERGY SYSTEMS, TO ESTABLISH RULES AND REGULATIONS RELATED TO SAID SYSTEMS; AND PROVIDING FOR SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, on or about July 25, 2018, the Board of Supervisors of LeBoeuf Township (the "Township") adopted Ordinance No. 1 of 2018, colloquially known as the LeBoeuf Township Zoning Ordinance (the "Zoning Ordinance"); and

WHEREAS, the Zoning Ordinance currently lacks a definition for wedding barns and wishes to define "wedding barns" as well as defining the Zoning Districts where they can be located and requirements for operating the same; and

WHEREAS, the Board of Supervisors wish to revise the definition for "rental services" to include additional types of commercial businesses; and

WHEREAS, the Board of Supervisors wish to allow temporary use permit licensees to renew said permits on an annual basis; and

WHEREAS, the Board of Supervisors wish to add additional provisions governing the storage of recreational vehicles in the Township; and

WHEREAS, solar farms and solar energy systems have proliferated in the Commonwealth of Pennsylvania, specifically in rural areas with space for solar devices; and

WHEREAS, the Board of Supervisors wish to establish provisions related to solar energy, including definitions, permissible Zoning Districts, and rules and regulations; and

WHEREAS, the Board of Supervisors believe that this Zoning Ordinance Amendment will be beneficial to the Township and its citizens.

NOW THEREFORE, this 28th day of July, 2021, be it enacted and ordained by the Board of Supervisors of LeBoeuf Township, Erie County, Pennsylvania, as follows:

1. Recitals. The recitals set forth above are incorporated herein as if more fully set forth.

2. Amendment of Section 202. That Section 202 of the Zoning Ordinance, pertaining to definitions, be amended in applicable part through the addition of the bolded terms below:

> Rental Services: A business establishment that rents machinery, equipment, tools, retail equipment, transportation equipment of any or all kinds and sizes, including, but not limited to, earthmoving, powered access, power generation, hand-held tools, kayaks, boats, furniture, tables, chairs, **tents, party supplies,** and all other goods that could be feasibly rented for final users and/or services including, but not limited to, transportation services, contracting services, vacation services, recreational services, and touring services. Said rental shall be for a limited period of time to final

users, including, but not limited to, corporations, limited liability companies, partnerships, and individual consumers . . .

Wedding Barns: Indoor/outdoor commercial recreation facilities that persons may operate or rent for the holding of matrimonial ceremonies, receptions, and other large scale catered events.

3. Amendment of Section 302.03 That Section 302.03 of the Zoning Ordinance, entitled Permits for Temporary Uses and Structures, shall be amended in applicable part through the addition of the bolded terms below and the deletion of the terms struck out:

C. A Zoning Permit is required for any of the following temporary uses or structures: . . .

Temporary occupancy of recreational vehicles or recreational equipment for a period of time greater than 30 consecutive days or 30 days within a calendar year, but less than 180 consecutive days or 180 days within a calendar year. Unless specifically stated otherwise in this ordinance, the period of occupancy shall not exceed 180 consecutive days or 180 days within a calendar year. The use must comply with all applicable requirements of Section 704.02 (Recreational Vehicles & Recreational Equipment). ~~Such permit shall not be renewable.~~ **Zoning permits for temporary occupancy of recreational vehicles or recreational equipment can be renewed on an annual basis by the Zoning Administrator.** In accordance with Section 302.02(O)(5), no permit is required for temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding (1) 30 consecutive days or (2) 30 days within a calendar year.

4. Amendment of Section 308.05. That Section 308.05 of the Zoning Ordinance, entitled Hearings, shall be amended in applicable part through the additional of the terms bolded below:

B. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural, or other

technical consultants or expert witness costs. **Legal expenses shall not include expenses for a court reporter, which shall be equally shared by the requester and the Zoning Hearing Board pursuant to Subparagraph I.**

5. Amendment of Section 505. That Section 505 of the Zoning Ordinance, pertaining to the District Use Table, be amended in applicable part through the addition of the bolded terms in the table below:

Key: P=Permitted Use (approved by Zoning Administrator SE= Special Exception (approved by Zoning Hearing Board	Agricultural	Residential	B-1 Business	B-2 Business
Non-Residential Uses				
…..				
Wedding Barns	**P**	**SE**	**P**	**P**
Accessory Solar Energy System (ASES)	**P**	**P**	**P**	**P**
Principal Solar Energy Systems (PSES):	**SE**		**SE**	**SE**

6. Amendment of Section 704.02. That Section 704.02 of the Zoning Ordinance, entitled Recreational Vehicles and Recreational Equipment, be amended in applicable part through the addition of the bolded terms below:

A. . . .

2. The temporary occupancy of recreational vehicles and/or recreational equipment shall be permitted, subject to the following conditions: . . .

d. **Recreational vehicles must be mobile in order to facilitate their transport to a dump station. In absence of mobility, recreational vehicles must be attached to a septic system approved by the Erie County Department of Health.**

e. Notwithstanding Sections 302.03 . . .

D. Recreational vehicles that are immobile due to the removal of wheels must be attached to a Certified Septic System, approved by the Erie County Department of Health.

E. Recreational vehicles that are immobile and located on a piece of real property must adhere to all applicable setback requirements of the Zoning District in which they are located.

7. Amendment of Section 1002. That the Zoning Ordinance be amended through the addition of Section 1002.28, entitled Wedding Barns, with said Section 1002.28 containing the following:

1002.28 Wedding Barns

Weddings Barns shall be subject to the same criteria as Commercial Recreation, Outdoor, as more particularly described in Section 1002.10 of this Ordinance.

8. Addition of Section 1103. That the Zoning Ordinance be amended through the addition of Section 1103, entitled Solar Energy Systems, with said Section 1103 including the following:

1103 Solar Energy Systems

1103.01 Applicability

A. This portion of the Zoning Ordinance applies to solar energy systems to be installed and constructed after the Effective Date of the Zoning Ordinance, as well as all applications for solar energy systems on existing structures or property.

B. Solar energy systems constructed prior to the Effective Date of this Zoning Ordinance shall not be required to meet the requirements of this Section 1103.

C. Any updates, modifications, or changes that materially alter the size or placement of an existing solar energy system shall comply with the provisions of the Zoning Ordinance.

1103.02 Purpose

The purpose of this Section 1103 is to promote the use of solar energy and to provide for the land planning, installation, and construction of solar energy systems in the Township, subject to reasonable conditions that will protect the public health, safety, and welfare.

1103.03 Definitions Specific to Solar Energy Systems

The following words, terms, and phrases, when used in this Zoning Ordinance, shall have the meanings ascribed to them unless the context indicates otherwise:

Accessory Solar Energy System (ASES): 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.

Principal Solar Energy Systems (PSES): 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 imparted 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 Array: A grouping of multiple solar modules with purpose of harvesting solar energy.

Solar Cell: The smallest basic solar electric device which generates electricity when exposed to light.

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

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

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.

Section 1103.04 Accessory Solar Energy Systems (ASES)

Accessory Solar Energy Systems ("ASES") shall be subject to the following criteria:

A. Regulations Applicable to All ASES:

1. ASES shall be permitted as a permissible use or special exception as outlined in Section 505 of this Ordinance.

2. ASES constructed prior to the effective date of this Section 1103 shall not be required to meet the terms and conditions of this Section 1103.04. Any physical modification to an existing ASES whether or not existing prior to the effective date of this Section 1103 that materially alters the ASES shall require approval under this Section. Routine maintenance or like-kind replacements shall not require a Permit.

3. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute, Underwriters Laboratories, the American Society for Testing and Materials, Institute of Electrical and Electronics Engineers, Solar Rating and Certification Corporation, Electrical Testing Laboratory,

or other similar certifying organizations, and shall comply with the Pennsylvania Uniform Construction Code as enforced by the Township through its Uniform Construction Code Ordinance.

4. Upon completion of installation, the ASES shall be maintained in good working order.

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

6. The owner of an ASES shall provide the Township written confirmation that the public utility to which the ASES has 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.

7. The display of advertising is prohibited, except for a reasonable identification of the manufacturer of the system.

8. Each ASES and all solar-related equipment shall be removed within six (6) months of the date when the use has been discontinued or abandoned by system owner or operator, or upon the termination of the useful life of the same. The ASES shall be presumed to be discontinued or abandoned if no electricity has been generated by such solar collector for a period of six (6) continuous months.

9. Permit Requirements.

    a. Zoning Permit applications shall document compliance with this Zoning Ordinance and shall be accompanied by drawings showing the location of the system on the building or property. Zoning Permits must be kept on the premises where the ASES is constructed.

    b. Prior to the issuance of a Zoning Permit, applicants must acknowledge in writing that the issuing of said Zoning Permit for a solar energy system shall not and does not create in the property owner, 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.

c. The Zoning Permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, which result in the ASES being in non-conformity with this Section.

d. 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 otherwise remove the ASES.

B. Roof-Mounted and Wall-Mounted ASES:

1. A roof-mounted or wall-mounted ASES may be located on a principal or accessory building.

2. ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations of the underlying Zoning District.

3. Wall-mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying Zoning Districts.

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

5. 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.

6. For roof and wall-mounted systems, the applicant shall provide evidence that the roof or wall is capable of

holding the load imposed on the structure and evidence that the applicant has complied with the Township Uniform Construction Code Ordinance.

C. Ground-Mounted Accessory Solar Energy Systems

1. A ground-mounted ASES shall not be located in the required front yard setback.

2. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structures setback required in the applicable Zoning District.

3. Ground-mounted ASES will adhere to the maximum height requirements that apply to accessory structures in the applicable Zoning District.

4. The area beneath the ground-mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered to impervious and subject to any impervious surfaces limitations for the applicable Zoning District.

5. Appropriate safety or warning signs 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.

6. 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 run-off in a constructed stormwater conveyance system .

Section 1103.05 Principal Solar Energy Systems (PSES)

Principal Solar Energy Systems ("PSES") shall be subject to the following criteria:

A. Regulations Applicable to All PSES:

1. PSES constructed prior to the effective date of this Section 1103 shall not be required to meet the terms and conditions to this Section 1103.05. 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 Section 1103.05. Routine maintenance or like-kind replacements do not require a permit.

2. The PSES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute, Underwriters Laboratories, the American Society for Testing and Materials, Institute of Electrical and Electronics Engineers, Solar Rating and Certification Corporation, Electrical Testing Laboratory, or similar certifying organizations, and shall comply with the Pennsylvania Uniform Construction Code as enforced by the Township under its Uniform Construction Code Ordinance.

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

4. Upon completion of the installation, the PSES shall be maintained in good working order.

5. The owner of a PSES shall provide the Township written confirmation that the public utility 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.

6. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information shall be permitted on the PSES.

7. The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and companies throughout the life of the project and provide this number and name to the Township. The PSES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

8. Financial Security

    a. At the time of the issuance of the Zoning Permit for the construction of the PSES, the owner shall provide financial security in the amount of $1,000 for each acre of real property utilized for the installation of PSES. Said financial security shall be provided to the Township Secretary in

the form of a bond or cashier's check. The financial security shall be retained indefinitely until the PSES is decommissioned and will secure the expense of dismantling and removing said PSES as well as the restoration of the land to its original condition, including forestry plantings of the same type, variety, and density as the original.

b. This financial security shall be in addition to any and all financial security required by the Township under its Subdivision and Land Development Ordinance, as may be amended from time-to-time.

9. Decommissioning

a. The PSES owner is required to notify the Township 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.

b. In the event that a PSES's solar production falls below Thirty Percent (30%) of its total engineered production within a two (2) year period, the PSES shall be considered to be decommissioned and/or abandoned under this section, unless the PSES owner can provide evidence establishing that the PSES was under repair during this two (2) year period.

c. Upon the finding that a PSES is decommissioned, 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 timeframe, the Township may complete the decommissioning and bill the owner for the costs of the same.

10. Permit Requirements

a. Zoning Permit applications shall document compliance with this Zoning Ordinance and shall be accompanied by drawings showing the location of the PSES on the building or property, including property lines. Zoning Permits must be kept on the premises where the PSES is located.

b. PSES shall comply with all applicable building code and subdivision and land development requirements as well as any other applicable federal, state or local laws.

c. Prior to the issuance of a Zoning Permit, PSES applicants must acknowledge in writing that the issuance of said Zoning Permit shall not and does not create in the property owner, or their successors or assigns in title, or creating the property itself: (a) the right to remain free of shadows 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.

d. Routine maintenance or like-kind replacements do not require a Zoning Permit.

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

B. Roof-Mounted and Wall-Mounted Principal Solar Energy Systems.

1. PSES mounted on roofs or walls of any building shall be subject to the maximum height regulations of the applicable Zoning District.

2. For roof and wall-mounted systems, the applicant shall provide evidence that the plans comply with the Township Uniform Construction Code Ordinance and that the roof or wall is capable of holding the load

imposed on the structure. Applications for roof-mounted PSES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the PSES.

C. Ground-Mounted Principal Solar Energy Systems

1. PSES shall comply with the setbacks of the applicable Zoning District for principal structures.

2. Ground-mounted PSES shall comply with the building height restrictions for principal structures in the applicable Zoning District.

3. The area beneath the ground-mounted PSES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious structures limitations for the applicable Zoning District.

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

5. Ground-mounted PSES shall be screened from adjacent residential Zoning Districts or uses according to applicable standards in the underlying Zoning District.

6. 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 run-off from collecting in a constructed stormwater conveyance system.

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

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

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

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

8. Repealer. Any Ordinances, rules, or resolutions, or parts of Ordinances in conflict herewith, are hereby repealed.

9. Severability. The provisions of this Ordinance are severable. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section, or part therefor not been included herein.

10. Effective Date. This Ordinance shall become effective five (5) days after enactment.

DULY ENACTED AND ORDAINED on the day first written above by the Board of Supervisors of LeBoeuf Township, Erie County, Pennsylvania.

ATTEST:

Catherine Wise, Secretary

July 28, 2021

LEBOEUF TOWNSHIP

BY: _____
James Glover, Supervisor

BY: _____
Michael Porter, Supervisor

BY: _____
Michael Whitman, Supervisor