

To: POCONO RECORD
From: CATHY A MARTINELLI, CGA, CMC
RE: PUBLIC NOTICE
DATE: September 11, 2023

PUBLIC NOTICE
CHESTNUTHILL TOWNSHIP

The Chestnuthill Township Board of Supervisors will hold a special meeting on Thursday, September 14, 2023, at 7:00 p.m. at the Municipal Building 271 Route 715, Brodheads ville, PA., for the purpose of:

1. Establishing a public hearing date in relation to a proposed draft ordinance to amend the Commercial solar power generation provisions of the Zoning Ordinance and Subdivision and Land Development Ordinance, and to authorize Atty. McManus to advertise the same in conjunction with a Notice of Intention to Enact that ordinance.
2. Establishing a hearing date for the Conditional Use application of Effort Energy Initiative LLC to construct/erect a commercial solar power generation facility at 301 Merwinsburg Road, which is in the (RR) Rural Residential Zoning District, and authorize Atty. McManus to advertise the same.
3. Discussion and possible approval of a proposed Tavianini zoning settlement agreement. (an executive session may be held in connection with this)

No other business will come before the Board.

Cathy Martinelli, CMC, CGA
Secretary

Post
Wednesday September 13

CHESTNUTHILL TOWNSHIP

MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 119 (ZONING) OF THE CODE OF THE TOWNSHIP OF CHESTNUTHILL TO:

ITEM 1 - AMEND, ADD AND DELETE DEFINITIONS IN §119-21	1
ITEM 2 - INCLUDE <i>SOLAR COMMERCIAL FACILITY</i> IN <i>119 ATTACHMENT 2</i>	3
ITEM 3 – UPDATE §119-40A(49) FROM <i>SOLAR POWER GENERATION, COMMERCIAL</i> TO <i>SOLAR COMMERCIAL FACILITY</i>	3

AND AMENDING CHAPTER 98 (SUBDIVISION AND LAND DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF CHESTNUTHILL TO:

ITEM 4 - AMEND THE DEFINITION OF LAND DEVELOPMENT IN §98-19	8
ITEM 5 - ADD <i>SOLAR COMMERCIAL FACILITY</i> TO §98-60D(2) RELATED TO COMMON OPEN SPACE AND RECREATION FEES	9
ITEM 6 - ADD §98-60E(3) RELATED TO <i>SOLAR COMMERCIAL FACILITY</i> COMMON OPEN SPACE AND RECREATION FEES.....	9

NOW THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Chestnuthill Township, Monroe County, Pennsylvania, pursuant to the provisions of the Pennsylvania Municipalities Planning Code; that Chapter 119 (Zoning) and Chapter 98 (Subdivision and Land Development) of the Code of the Township of Chestnuthill are hereby amended as follows:

 **ITEM 1 - Amend, add, and delete definitions in §119-21:**

A. Amend to read:

LAND DEVELOPMENT:

- A. The improvement of one or two or more contiguous lots, tracts, or parcels of land for any purpose involving either or both of the following:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single principal nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features.
- B. A subdivision of land.
- C. A Solar Commercial Facility (SCF) as defined in §119-21.
- D. The definition of *land development* shall not include the following:
 - (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units unless such units are intended to be a condominium.
 - (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing

principal building.

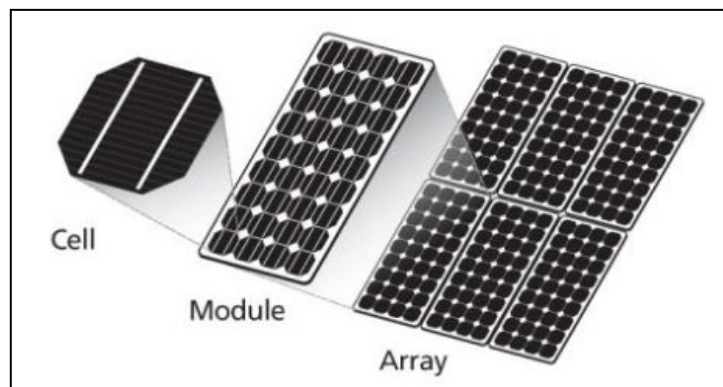
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subsection, an *amusement park* is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the Township.

SOLAR ENERGY SYSTEM: A solar photovoltaic cell, module, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

SOLAR ARRAY: A grouping of multiple solar modules for harvesting solar energy.

SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.



SOLAR COMMERCIAL FACILITY (SCF): A facility where one or more solar collectors and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities, are located and are used for the generation of electricity which is sold on the open market.

B. Add.

DECOMMISSIONING PLAN: An agreement entered into with the Board of Supervisors, and recorded with the Monroe County Recorder of Deeds, detailing the timing, as well as the steps and procedures that will be taken, to decommission a solar energy facility and the amount, form and timing of financial security to assure the timely completion of the same, which shall be in form and content acceptable to the Board of Supervisors.

SOLAR ACCESS: A property owner's right to have sunlight shine on the owner's land.

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 electric system.

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

SOLAR GLARE: The effect produced by light reflecting from a solar array with an intensity sufficient to cause

annoyance, discomfort, or loss in visual performance and visibility.

SOLAR RELATED EQUIPMENT: Items including, but not limited to, a solar photovoltaic cell, module, or array, or solar hot air or water collector devices, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

C. Delete.

SOLAR ENERGY STORAGE FACILITY: Equipment consisting of containers, heat exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls, and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

ITEM 2 - Change the Solar power generation, commercial listing in 119 Attachment 2 to Solar Commercial Facility [§119-40A(49)] to read as follows:

Types of Uses (See definitions in Article II)	Zoning Districts											
Commercial Uses	CR	RR	R-1	R-S	R-2	R-3	VC	GC	LIC	GI	BP	I
Solar Commercial Facility [§119-40A(49)]	N	N	N	N	N	N	N	N	C	N	N	N

ITEM 3 - Delete §119-40A(49) (Solar power generation, commercial.) in its entirety and replace it with the following:

(49) Solar Commercial Facility. In addition to all applicable provisions of this chapter, the following regulations shall apply to any SCF proposed to be constructed, installed, operated, or decommissioned, and to any upgrade, modification, or structural change that materially alters the size or placement of an existing SCF or its solar energy system(s). A SCF shall be permitted only in the districts as provided by the Use Regulations.

(a) Purpose.

- [1] To address the installation of solar commercial generation in the Township and strike a balance between promoting renewable energy and avoiding areas designated for other uses critical to community and economic development.
- [2] To provide reasonable development standards to facilitate the installation of solar commercial while addressing potential community impacts.
- [3] To reduce traffic impacts by requiring solar facility access to roads with adequate capacity.

(b) Land development. A SCF shall also meet the requirements of Chapter 98 (Subdivision and Land Development) including, but not limited to, land development requirements.

(c) Application requirements. In addition to the requirements set forth in §119-18, the SCF owner and/or applicant shall provide the following as part of the conditional use application:

- [1] Site plan. A descriptive site plan including, but not limited to, dimensioned setbacks, locations of

property lines, roadways and driveways, location, and size of solar modules and/or arrays, elevations and heights of buildings and structures, location and detail of perimeter fencing, and buffer and landscaping requirements.

- [2] Fire protection plan. The site plan shall incorporate a fire protection plan, including, but not limited to, location of hydrants and other on-site and off-site firefighting equipment, and a narrative of same shall be provided to the Township and the West End Fire Company (or other applicable successor local fire company) for review and comment.
 - [3] Utility notification. Evidence that the electric utility company has been informed of the owner's and/or operator's intent to install such facility and its intended connection to the utility grid. A copy of the electric utility company's approval to connect to the utility grid shall be provided to the Township if secured at time of conditional use application, but not later than at time of application for zoning permit.
 - [4] Permission to apply. An affidavit or evidence of agreement between the property owner and SCF owner and/or operator confirming the SCF owner and/or operator has permission to apply for the conditional use.
 - [5] State and federal permits. Copies of all necessary state and federal permits for the construction, installation, operation, and decommissioning of the SCF and its solar energy system(s) shall be provided if secured at time of conditional use application, but not later than at time of application for zoning permit.
 - [6] Agency documents. Copies of all studies, analyses, reports, certificates, and approvals required by all agencies shall be provided to the Township if secured at time of conditional use application, but not later than at time of application for zoning permit.
 - [7] Decommissioning plan. A proposed Decommissioning Plan for review and approval by the Board of Supervisors.
- (d) Development standards, requirements, and criteria. The following standards, requirements, and criteria, without limitation, shall apply to a SCF:
- [1] Fence.
 - [a] The SCF and its solar energy system(s), solar related equipment, principal and accessory buildings and structures, and parking facilities shall be enclosed by perimeter chain-link fencing, and/or other fencing required by state or federal agency, and access gate(s) at a height between eight and nine feet for the purpose of restricting unauthorized access.
 - [b] Such fencing shall be black poly-coated and shall not include barbed wire or similar product unless otherwise required by a state or federal agency.
 - [c] A Knox-type box shall be installed on all access gates for emergency access by the West End Fire Company (or other applicable successor local fire company) and other emergency responders.
 - [2] Landscaping and buffers. Landscaping and buffers shall be provided in accord with §119-71D and §98-71.

[3] Ground cover.

[a] An area not less than 25 feet in width and planted and maintained with grass and/or other vegetation satisfactory to the Board of Supervisors shall be located between the perimeter required fencing and all solar related equipment as a firebreak. An alternative method of providing SCF perimeter fire protection may be proposed by the SCF owner and/or operator and may be approved by the Board of Supervisors.

[b] Grass shall be planted and maintained below and between ground-mounted solar modules and/or arrays, except where access roads are provided.

[c] All plants shall be species listed in *98 Attachment 12* of Chapter 98.

[d] A note on the SCF land development plan shall detail the type of grass and its maintenance to ensure continuous ground cover, soil stabilization and a minimized risk of a fire hazard.

[4] Access and parking. Access roads and parking areas within the SCF shall comply with §119-76.

[5] Signs. The SCF manufacturer's, installer's, and operator's identification and contact information, emergency contact information and appropriate warning signage not greater than three square feet each, or the minimum square footage signage allowed by applicable code, state, or federal agency, shall be posted on the access gate and/or perimeter fencing as required by applicable regulations. Except as provided herein, a SCF shall not display signage of any kind as defined in §119-57 (*Signs; Definitions and interpretation.*)

[6] Utility lines. All on-site utility lines shall be placed underground unless otherwise approved by the Board of Supervisors. The conditional use site plan and land development plan shall clearly depict where all underground and above-ground utility lines are proposed.

[7] Bulk and coverage. A SCF shall comply with the following bulk and coverage standards:

Minimum front, side, and rear setback from property lines and street rights-of-way for perimeter fence	50 feet
Minimum front, side, and rear setback from property lines and street rights-of-way for solar arrays and their mounting equipment	100 feet
Maximum solar array height	15 feet
Maximum lot coverage	60 percent
Minimum lot area	10 acres

[8] Lot coverage. The cumulative surface area of solar arrays, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.

[9] Solar Glare. The applicant shall provide details about anticipated glare from the facility, including the time of day, time of year and direction of peak glare periods, and document how potential nuisances to area properties and on public roads will be controlled in accord with §119-48.

[10] Standards and certification. The design of the SCF 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 or other similar certifying organizations. The operator shall repair, maintain, and replace the solar collectors and associated equipment in the same manner as needed to keep the facility in good repair and operating condition.

[11] Owner and operator changes. The Township shall be notified in writing within 30 days of a change in:

- [a] SCF ownership,
- [b] SCF operator, and/or
- [c] the owner of land upon which the SCF is located.

[12] Emergency contacts. The Township shall be provided with contact name(s), address(es), phone number(s) and emergency contact information. The SCF owner and/or operator shall maintain a phone number and identify the person responsible for the public to contact with inquiries and complaints throughout the life of the project and shall provide this number and name to the Township. The SCF owner and/or operator shall make timely and reasonable efforts to respond to the public's inquiries and complaints.

(e) Decommissioning. Decommissioning of a SCF or any of its solar energy system(s) shall comply with the following, without limitation:

[1] Notification of Township. If a SCF or any of its solar energy system(s) have not been in operation for a period of six consecutive months, the SCF owner or operator shall notify the Township in writing with the reason(s) for inoperability and their intentions to reestablish operations or plans for decommissioning. The SCF owner or operator is required to notify the Township immediately upon cessation or abandonment of the operation. The SCF or one or more of its solar energy systems shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months.

[2] Six months for removal. The SCF owner and/or operator shall have six months from cessation or abandonment in which to dismantle and remove the SCF 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 and shall comply with §119-40A(49)(c)[8].

[3] Decommissioning cost estimate. An independent and certified Pennsylvania professional engineer shall be retained by the SCF owner or operator to estimate the total cost of decommissioning without regard to salvage value of the SCF solar related equipment. Said estimates shall be submitted to the Township Engineer for review, and approval by the Board of Supervisors, and be updated and submitted for such review and approval every fifth year thereafter.

[4] Decommissioning financial security. The SCF owner or operator, prior to the issuance of a zoning permit, shall provide financial security with the Township as payee in an amount approved by the Board of Supervisors. Any of the following, in a form and content acceptable to the Board of Supervisors, shall be an acceptable form of financial security:

- (a) A cash escrow deposited in a money market account, certificate of deposit, or other instrument or account of the Township's choice, provided that such account or financial instrument is insured by the Federal Deposit Insurance Corporation or any similar agency of the United States of America. The Township shall be the sole signatory with respect to that account; provided, however,

that the monies in such account shall be considered a trust account and shall not be subject to lien or attachment by third parties.

(b) A certificate of deposit or an automatically renewable, irrevocable letter of credit from a financial institution chartered or authorized to do business in this Commonwealth and regulated and examined by a Federal agency or the Commonwealth.

(c) A performance bond executed between the Applicant and a corporate surety licensed to do business in the Commonwealth of Pennsylvania.

The amount of financial security shall be increased every five (5) years so that the amount of the same is at least equal to the updated estimate of decommissioning costs as approved by the Board of Supervisors pursuant to §119-40A(49)(e)(3), and remain in place for as long as the SCF or its solar energy system(s) exist at the site and until restoration of the site is satisfactorily completed. Except in the case of a cash escrow being held and maintained by the Township, the SCF owner or operator shall be responsible for having the issuer of the financial security describe the status of the financial security in an annual report submitted to the Township. The financial security shall not be subject to revocation, reduction, or termination unless and until approved by the Board of Supervisors based upon the Township Engineer's and Solicitor's recommendation that decommissioning and re-vegetation have been satisfactorily completed.

- [5] Landowner responsibility. If the SCF owner or operator of its solar energy system(s) fails to complete decommissioning and re-vegetation within the time period stated herein, then decommissioning and re-vegetation in accordance with this chapter shall become the responsibility of the landowner. The responsibility for decommissioning by facility heirs, successors and assigns shall be established by a recorded document acceptable to the Board of Supervisors.
- [6] Township intervention. If neither the SCF owner or operator, nor the landowner completes decommissioning and re-vegetation within the prescribed periods, then the Township may take such measures, and use such of the financial security, as necessary to complete decommissioning and re-vegetation. The submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning and re-vegetation plan.
- [7] Transferability. A Decommissioning Plan, and the associated financial security, may not be separated from the SCF facility through a change in ownership. Any new owner shall become a party to the Decommissioning Plan via appropriate amendment in form and substance acceptable to the Board of Supervisors, and submit proof of financial security that complies with the requirements of §119-40A(49)(e)(3). The prior owner may not release or revoke the prior owner's financial security until the new owner's proof of financial security is accepted by the Board of Supervisors and notice is provided to the landowner.
- [8] Decommissioning conditions of the zoning permit. If the SCF owner or operator ceases operation of the facility or any of its solar energy system(s), or begins, but does not complete, construction of the project, the SCF owner and/or operator shall restore the site to its condition prior to any disturbance related to the SCF facility. The site shall be restored to a useful, nonhazardous condition, including but not limited to the following:
- [a] Removal of aboveground and underground equipment, structures, and foundations to a depth of at least three feet below grade. Underground equipment, structures and foundations need not be removed if they are at least three feet below grade and do not constitute a hazard or

interfere with agricultural use or other resource uses of the land.

- [b] Restoration of the surface grade and soil after removal of aboveground structures and equipment.
- [c] Removal of graveled areas and access roads.
- [d] Revegetation of restored soil areas with native seed mixes and plant species listed in *98 Attachment 12* of Chapter 98.
- [e] For any part of the SCF project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates, or buildings in place or regarding restoration of agricultural crops or forest resource land.
- (f) Shadows and/or obstructions. Prior to the issuance of a zoning permit, SCF owner or applicant 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: (1) 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 (2) the right to prohibit the development on or growth of any trees or vegetation on such property.
- (g) Solar easements. A copy of any solar easements obtained by the applicant and/or operator shall be provided to the Township.
- (h) Storage of related equipment. Solar related equipment and parts not in active operation on the SCF site shall be stored in an enclosed building and/or concealed within solid fencing no closer than the 50-foot setback for per §119-40A(49)(d)[7].
- (i) Solar Commercial Facility as a second principal use. A SCF shall be permitted on a property with an existing use in the LIC District subject to the following standards:
 - [1] The minimum lot area, minimum setbacks and maximum height required by this §119-40A(49) for the SCF shall apply, and be in addition to the minimum lot area, density, and other requirements applicable to any existing principal use on the property, so that the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density, and other requirements applicable to it.
 - [2] Vehicular access to the SCF shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - [3] The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed SCF, and that vehicular access is provided to the SCF.

 **ITEM 4 - Amend the definition of land development in §98-19 to read as follows:**

LAND DEVELOPMENT:

- A. The improvement of one or two or more contiguous lots, tracts, or parcels of land for any purpose involving

either or both of the following:

- (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single principal nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
- (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features.

B. A subdivision of land.

C. A Solar Commercial Facility (SCF) as defined in Chapter 119, §119-21.

D. The definition of *land development* shall not include the following:

- (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units unless such units are intended to be a condominium.
- (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subsection, an *amusement park* is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the Township.

 **ITEM 5 - Amend §98-60D(2) related to common open space and recreation fees to read as follows:**

- (2) The land and fee requirements of this section shall be based upon the number of new dwelling units, the square feet of floor area within new principal nonresidential buildings, and the square feet of solar array area in a Solar Commercial Facility (as defined in Chapter 119, §119-21) that would be allowed on the lots of a subdivision or land development after approval. No fee or land requirement shall be required for agricultural, livestock or poultry buildings.

 **ITEM 6 - Add §98-60E(3) related to common open space and recreation fees to read as follows:**

- (3) A fee of \$0.25 per square foot of solar array area in a solar commercial facility (as defined in Chapter 119, §119-21).

REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed, but only to the extent of such inconsistency.

SEVERABILITY

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

Chestnuthill Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

EFFECTIVE DATE

This Ordinance shall become effective five (5) days following adoption.

ENACTED AND ORDAINED into law by the Board of Supervisors of Chestnuthill Township, Monroe County, Pennsylvania, this ____ Day of _____ of 2023.

Chuck Gould II, Chairman

Eric Snyder, Vice-Chairman

Roger Kutzler, Supervisor

ATTEST: _____
Cathy Martinelli, Secretary