

ORDINANCE NO. 146

AN ORDINANCE OF THE TOWNSHIP OF LOWER MILFORD AMENDING THE ZONING ORDINANCE TO REVISE, CLARIFY AND EXPAND PROVISIONS RELATED TO RESIDENTIAL ACCESSORY ROOF-MOUNTED SOLAR, RESIDENTIAL GROUND-MOUNTED ACCESSORY SOLAR, TIMBER HARVEST, DEFINITIONS AND OTHER REVISIONS AND CLARIFICATIONS.

WHEREAS, The Township of Lower Milford, hereafter Township, enacted a Zoning Ordinance, Ordinance No. 114, on July 20, 2009; and

WHEREAS, The Board of Supervisors amended Zoning Ordinance No. 114 on April 20, 2016 by Ordinance No. 127; and

WHEREAS, the Township amended Zoning Ordinance No. 114 again on September 19, 2019 by Ordinance No. 134; and

WHEREAS, the Township amendment Zoning Ordinance No. 114 again on March 18, 2021 by Ordinance No. 138; and

WHEREAS, The Township now desires to further amend the Zoning Ordinance to clarify, define, and revise the Timber Harvest and Residential Roof-Mounted Solar accessory use.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that the Zoning Ordinance of Lower Milford Township be amended as follows.

ARTICLE II Section 201 *Definition of Terms* is amended by adding or altering the following terms and definitions;

CLEAR-CUTTING: The uniform felling and/or removal of all trees on a given tract of any size, or any portion of a tract greater than one-half (0.5) acre in contiguous area, during a single Timber Harvesting Operation or within a three (3) year period. See also "Selective Cutting".

DRIVEWAY: Every entrance or exit used by vehicular traffic to or from properties abutting a public road. The term includes proposed streets, lanes, alleys, courts and ways.

FELLING: The act of cutting a standing tree so that it falls to the ground.

FORESTRY: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development. Forestry shall be permitted in all zoning districts under provisions of Section 107 and 603(f) of the Pennsylvania Municipalities Planning Code, and in accordance with the provisions of Section 1200.A.31 of this Ordinance. (see TIMBER HARVESTING OPERATION)

LANDING : a place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

LOGGING: (see **TIMBER HARVESTING**)

LOP: To cut tree tops and slash into smaller pieces to allow material to settle close to the ground.

PRE-COMMERCIAL TIMBER STAND IMPROVEMENT: A forest practice, such as thinning or pruning, that results in better growth, structure, species composition, or health for the residual stand but does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small, or otherwise of limited marketability or value.

SKIDDING: Dragging trees on the ground from the stump to the landing by any means.

SLASH: Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

SOLAR ARRAY: A grouping of multiple solar modules with the 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 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 ENERGY SYSTEM GROUND-MOUNTED ACCESSORY: An area of a residential property that collects solar energy and is not mounted on the roof of a home or other residential accessory structure, as 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 on-site use. An accessory solar energy system consists of one (1) or more roof-mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

SOLAR ENERGY SYSTEM ROOF-MOUNTED ACCESSORY: An area of a roof of a home or other residential accessory structure 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 on-site use. An accessory solar energy system consists of one (1) or more roof-mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

SOLAR INVERTER: . Its primary job is to convert the raw Direct Current (DC) electricity generated by your solar panels into usable Alternating Current (AC) electricity, which is the standard type of power required by home appliances and the electrical grid.

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

SOLAR RELATED EQUIPMENT: Items including a solar photovoltaic cell, module, or array, solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used or intended to be used for collection of solar energy.

STAND: Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

TIMBER HARVESTING: That part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

TIMBER HARVESTING OPERATION: The disturbance for commercial purposes, and in compliance with an approved Timber Harvesting Plan, of more than one half (0.5) acre of woodland identified on the adopted Lower Milford Township Woodland Classification Map, whether accomplished in a single operation or in more than one operation over three or fewer years. The removal of trees pursuant to an approved subdivision or land development plan, landscape plan or open space management plan, the removal of dead or diseased trees, or invasive vegetation, and the cutting or removal of trees as part of a nursery, orchard or Christmas tree farming operation shall not be considered Timber Harvesting Operations. Forestry, as defined by the Pennsylvania Municipalities Planning Code, as amended, shall be considered a Timber Harvesting Operation. All Timber Harvesting Operations, where permitted, shall comply with the provisions set forth in Section 1200.A.31 of this Ordinance.

TIMBER HARVESTING PLAN: A plan submitted in conformance with the provisions set forth in Article XII, Section 1200.A.31 of this Ordinance, which describes, by means of text and maps, proposed actions involving the removal of trees from a tract of land.

TOP – the upper portion of a felled tree that is not merchantable because of small size, taper, or defect.

TREE HARVESTING – see “TIMBER HARVESTING”

ARTICLE III AC - AGRICULTURAL CONSERVATION DISTRICT

Section 301 USE REGULATIONS subsection (A) Uses permitted by right, is hereby amended by revising to the following existing subsection:

A.1.b Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance

Section 301 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by adding the following subsection:

1.m. Roof-Mounted Accessory Solar Energy Systems.

Section 301 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

11. Solar or other alternative energy generation for residential or farm use

Section 301 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

11. Residential Ground-Mounted Accessory Solar or other Alternative Energy Generation

ARTICLE IV RC - RESOURCE CONSERVATION DISTRICT

Section 401 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by revising to the following existing subsection:

A.1.b Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance.

Section 401 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by adding the following subsection:

1.1. Roof-Mounted Accessory Solar Energy Systems

Section 401 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

13. Solar or other alternative energy generation for residential or farm use

Section 401 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

13. Ground-Mounted Accessory Solar Energy Systems or Other Alternative Energy Generation

ARTICLE V RR – 1 – RURAL RESIDENTIAL-1 DISTRICT

Section 501 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by revising to the following existing subsection:

A.3. Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance.

Section 501 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by inserting the following subsection:

8. Roof-Mounted Accessory Solar Energy Systems

Section 501 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

8. Solar or other alternative energy generation for residential or farm use

Section 501 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

8. Ground-Mounted Accessory Solar Energy Systems or Other Alternative Energy Generation.

ARTICLE VI RR – 2 – RURAL RESIDENTIAL-2 DISTRICT

Section 601 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by revising to the following existing subsection:

A.3. Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance.

Section 601 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by inserting the following subsection:

8. Roof-Mounted Accessory Solar Energy Systems

Section 601 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

8. Solar or other alternative energy generation for residential or farm use

Section 601 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

8. Ground-Mounted Accessory Solar Energy Systems or Other Alternative Energy Generation

ARTICLE VII VILLAGE CENTER DISTRICT

Section 701 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by revising to the following existing subsection:

A.3. Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance.

Section 701 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by adding the following subsection:

19. Roof-Mounted Accessory Solar Energy Systems

Section 701 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by removing the following subsection:

10. Solar or other alternative energy generation for residential or farm use

Section 701 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

11. Ground-Mounted Accessory Solar Energy Systems or Other Alternative Energy Generation.

ARTICLE VIII *OPEN SPACE DESIGN OPTION*

§804 Open Space Designation and Management Standards

§A.2.c. Forestry (including Timber Harvesting) where conducted in compliance with the provisions of Article XII, Section 1200.A.31 of this Ordinance.

ARTICLE X *NATURAL RESOURCE PROTECTION STANDARDS*

§1003 STEEP SLOPE CONSERVATION is hereby amended by revising to the following existing subsection:

- A. Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and, in no case, shall it exceed the following permitted disturbance limits:
1. Moderately Steep Slopes - No more than thirty-five (35) percent of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 2. Very Steep Slopes - No more than twenty-five (25) percent of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 3. Steep Slope Margins - No more than twenty-five (25) percent of steep slope margins shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 4. Prohibitively Steep Slopes - No more than ten (10) percent of prohibitively steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. In addition, disturbance permitted on prohibitively steep slopes shall be limited to the following activities:
 - a. Timber harvesting, when conducted in compliance with the required timber harvesting plan of Section 1200.A.31 of this Ordinance.
 - b. Grading for the minimum portion of a driveway necessary for access to the principal use and sewer, water, and other utility lines when it can be demonstrated to the satisfaction of the Township that no other routing is practicable, but excluding sewage disposal systems.
 - c. Trail(s) of minimum adequate width(s), where developed so as to minimize potential erosion, follow existing topographic contours to the greatest degree practicable, and where using unpaved surfaces to the maximum practicable extent.

§1004 WOODLANDS AND HEDGEROWS is hereby amended by revising to the following existing subsection:

- A. Disturbance Limitations for Woodlands and Hedgerows

The disturbance limitations set forth herein shall apply to any woodland disturbance not otherwise regulated as a Timber Harvesting Operation. Clear-cutting of any woodland area shall not be permitted as a means of woodland disturbance except to the minimum necessary to permit the implementation of an approved subdivision or land development, landscape plan, open space management plan, or building permit in conformance with this section. All woodland disturbances other than approved Timber Harvesting Operations shall be subject to the following total disturbance limitations:

§1005 HERITAGE TREES is hereby amended by revising to the following existing subsection:

A. No Heritage Trees shall be removed from any lot or tract except where undertaken in accordance with an approved Timber Harvesting Plan prepared in accordance with Section 1200.A.31 of this ordinance, or where the applicant demonstrates to the satisfaction of the Township that such removal is essential to eliminate hazardous condition(s). In consideration of any need for tree removal, the Township may engage the services of an arborist, reasonable costs therefore to be borne by the applicant.

Where any applicant for zoning, building, subdivision or land development approval establishes conservation restrictions acceptable to the Township which shall result in the conservation of Heritage Trees in areas proposed for disturbance, all such Heritage Trees to be retained shall be credited toward any tree replacement required under Section 1004.E.1, at the ratio of four (4) trees credited for each Heritage Tree retained.

§1008 RIPARIAN BUFFER AND WETLAND MARGIN PROTECTION STANDARDS

A. Zone One – Inner Riparian Buffer and Wetland Margin – With the exception of those uses or activities listed below, no land disturbance shall be permitted within the Zone One Riparian Buffer or Wetland Margin:

1. Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing).
2. Provision for trail and trail access where approved by the Township with minimum disturbance to existing woodland vegetation;
3. Selective removal of hazardous or invasive vegetation; or
4. Vegetation management in accordance with an approved landscape plan or open space management plan.

B. Zone Two – Outer Riparian Buffer and Wetland Margin - Except for the following activities, no more than twenty (20) percent of a Zone Two Riparian Buffer or Wetland Margin shall be regraded, filled, built upon, or otherwise altered or subject to land disturbance:

1. Activities permitted in the Zone One Riparian Buffer or Wetland Margin.
2. Timber Harvesting Operations, when conducted in compliance with a Timber Harvesting Plan prepared in accordance with Section 1200.A.31.

ARTICLE XII SUPPLEMENTARY REGULATIONS

§1200 REGULATIONS APPLYING TO CERTAIN USES AND DISTRICTS subsection A.31 *Timber Harvesting Operations* is repealed and replaced with the following:

A.31 Timber Harvesting Operations

- a. In order to conserve forested open spaces and the environmental and economic benefits they provide, it is the policy of Lower Milford Township to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations contained in this section are intended to further this policy by (1) promoting good forest stewardship, (2) protecting the rights of adjoining property owners, (3) minimizing the potential for adverse environmental impacts, and (4) avoiding unreasonable and unnecessary restrictions on the right to practice forestry, and (5) improving human health and welfare of the community.
- b. To encourage maintenance and management of forested or wooded open spaces and promote the conduct of forestry as a sound and economically viable use of forested land throughout Lower Milford Township, forestry activities – including timber harvesting – shall be a permitted use by right in all zoning districts. These sections apply to all timber harvesting within Lower Milford Township where the value of the trees, logs, or other timber products removed exceeds \$2,000. These provisions do not apply to the cutting of trees for the personal use of the landowner or for precommercial timber stand improvement.
- c. For all Timber Harvesting Operations that are expected to exceed 0.5 acres, the landowner shall notify the Lower Milford Township Zoning Officer at least 30 business days before the operation commences and within 5 business days before the operation is complete. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.
- d. Every landowner on whose land timber harvesting is to occur shall prepare a written Timber Harvest Plan in the form specified by this ordinance. No timber harvesting shall occur until the plan has been prepared and provided to Lower Milford Township. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation and shall be provided to the Zoning Officer or their designee upon request.
- e. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the Timber Harvest Plan.
- f. At a minimum, the Timber Harvest Plan shall include the following:
 - 1) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
 - 2) Design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars;

- 3) Design, construction, and maintenance of proposed stream and wetland crossings; and,
 - 4) The general location of the proposed operation in relation to municipal and state highways, including any accesses to those highways.
- g. Each Timber Harvest Plan shall include a sketch map or drawing containing the following information:
- 1) Site location and boundaries, including both the boundaries of the properties on which the timber harvest will take place and the boundaries of the proposed harvest area within that property;
 - 2) Significant topographic features related to potential environmental problems;
 - 3) Location of all earth disturbance activities, such as roads, landings, and water control measures and structures;
 - 4) Location of all crossings of waters of the Commonwealth; and
 - 5) The general location of the proposed operation to municipal and state highways, including any accesses to those highways.
- h. Compliance with state law. The Timber Harvest Plan shall address and comply with the requirements of all applicable state regulations including, but not limited to, the following:
- 1) Erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. §691.1 et seq.)
 - 2) Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. §693.1 et seq.)
- i. Any permits required by state laws and regulations shall be attached to and become part of the Timber Harvest Plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the Timber Harvest Plan and associated map specified in sections f.) and g.) of this section, provided that all information required by these paragraphs is included or attached.
- j. The following management practices shall apply to all Timber Harvesting Operations in Lower Milford Township:
- 1) Felling or skidding across any public thoroughfare is prohibited without the express written consent of Lower Milford Township or the Pennsylvania

Department of Transportation, whichever is responsible for the maintenance of the thoroughfare.

- 2) No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway providing access to adjoining residential property.
 - 3) All tops and slash between 25 and 50 feet from a public or private roadway providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped to a maximum height of 4 feet above the ground.
 - 4) No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
 - 5) Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.
- k. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67 Pennsylvania Code, Chapter 189, the landowner and the operator shall be responsible for repairing any damage to Lower Milford Township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic. The operator may be required to furnish a bond to guarantee the repair of such damages.

Section 1200 *Regulations Applying to Certain Uses and Districts*, is hereby amended by the addition of the following subsection:

26. Roof-Mounted Accessory Solar Energy Systems

- a. A Zoning Permit shall be required for the construction and installation of all roof-mounted accessory solar energy systems.
- b. All design and installation shall conform to the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and regulations adopted by the Pennsylvania Department of Labor and Industry.
- c. A site plan shall be submitted showing the proposed location of the roof-mounted accessory solar energy systems and dimensions, and include property lines, setback lines, occupied buildings and other structures, well and septic facilities, and other utility services.
- d. All roof-mounted accessory solar energy systems shall be situated to eliminate concentrated glare on nearby structures or roadways and require the submission of a certification that the roof-mounted accessory solar energy systems will not produce concentrated glare.

- e. Installation of roof-mounted accessory solar energy systems is required to be performed by a contractor registered within the state of Pennsylvania.
- f. All on-site utility, transmission lines less than 34.5 kV, and plumbing shall be placed underground to the greatest extent possible.
- g. Roof-Mounted Accessory Solar Energy Systems shall be designed to use the energy created primarily for on-site use.
- h. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
- i. Roof-Mounted Accessory Solar Energy System panels shall not extend over the existing roof-line, with the exception of inverter and power equipment (electrical subsystems) and other related equipment which may be exempt from the roof footprint requirement.

Section 1200 *Regulations Applying to Certain Uses and Districts*, Subsection A.1.27 Solar or Other Alternative Energy Generation is hereby repealed and replaced with the following:

13. Ground-Mounted Accessory Solar Energy Systems or Other Alternative Energy Generation shall require a Special Exception and meet the following standards:

- a. A Zoning Permit and a Uniform Construction Permit shall be required for the construction and installation of ground mounted solar panels or other alternative energy generation.
- b. All minimum set-back requirements shall be met for the Zoning District in which it is located.
- c. All design and installation shall conform to the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and regulations adopted by the Pennsylvania Department of Labor and Industry.
- d. A site plan shall be submitted with the Special Exception application showing the proposed location of the solar or other energy generation structures, dimensions, property lines, setback lines, occupied buildings and other structures, well and septic facilities, and other utility services.
- e. A site plan review must be conducted by the Township Engineer for approval and comments regarding stormwater, floodplain, impervious surface coverage, soils analysis, possible alternate septic site plan availability, or other Department of Environmental Protection requirements, to be sure the plan conforms with all applicable zoning and construction codes. A report will be provided to the Zoning Hearing board to review and discuss prior to the Special Exception hearing.
- f. All Ground-Mounted Solar Accessory Systems shall be situated to eliminate concentrated glare on nearby structures or roadways and require the submission of

a certification that the accessory solar energy system will not produce concentrated glare.

g. Installation of ground-mounted accessory solar energy system is required to be performed by a contractor registered within the state of Pennsylvania.

h. All on-site utility, transmission lines less than 34.5 kV, and plumbing shall be placed underground to the greatest extent possible.

i. Ground-mounted accessory solar energy system shall be designed to use the energy created exclusively for on-site use.

j. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.

REPEALED

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

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 the Board of Supervisors of Lower Milford Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

EFFECTIVE DATE

This Ordinance shall become effective immediately following adoption.

ENACTED as an Ordinance of the Township of Lower Milford this ____ day of _____, 2026.

ATTEST:

**LOWER MILFORD TOWNSHIP
BOARD OF SUPERVISORS**

Township Secretary

Chair

Vice-Chair

Supervisor

DRAFT