

ORDINANCE NO. 2064

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN CREATING A NEW SECTION 503 TO BE ADDED TO ARTICLE 5, GENERAL REGULATIONS, OF CHAPTER 27, ZONING, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO ESTABLISH REGULATIONS FOR THE USE OF SOLAR ENERGY EQUIPMENT; AND AMENDING THE REGULATIONS FOR ALL ZONING DISTRICTS TO PERMIT SOLAR ENERGY EQUIPMENT AS AN ACCESSORY USE.

WHEREAS, the Burgess and Town Council of the Borough of Pottstown has adopted a comprehensive Zoning Ordinance to preserve and enhance the character of the Borough and promote the general welfare of its residents; and

WHEREAS, Borough Council and the Borough Planning Commission periodically review the Zoning Ordinance to determine if revisions are warranted; and

WHEREAS, due to a number of factors, a greater interest has been expressed in alternative energy sources for both residential and commercial uses, including the use of solar panels and other forms of solar energy equipment; and

WHEREAS, Borough Council believes that regulations are appropriate for solar energy equipment to permit their use subject to certain conditions, to allow Borough residents to take advantage of solar energy equipment while attempting to protect and ensure the value of neighboring properties.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, and IT IS HEREBY ENACTED AND ORDAINED by the authority of same as follows:

**SECTION 1.** Section 200, Permits Required, of Article 2, Applications, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to create a new subsection "D", which shall provide as follows:

**§200. Permits Required.**

- D. Install solar energy equipment with a total combined area of eight (8) square feet or more, pursuant to Section 503 of this Chapter.

**SECTION 2.** A new Section 503, Solar Energy Equipment, is hereby created and added to Article 5, General Regulations, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, and shall provide as follows:

**§503. Solar Energy Equipment.**

1. **Purpose:** The purpose of this Section is to provide standards for the use of solar energy equipment as accessory uses within the Borough of Pottstown. This Section seeks to protect properties from incompatible uses and to conserve and enhance property values, while promoting the use of alternative energy sources, where appropriate. This Section provides a process to facilitate the use of solar power in a manner that minimizes visual impacts of solar energy equipment and the potential for nuisance.
2. **Definition:** Solar energy equipment is defined as a solar photovoltaic panel, solar hot air or hot water panel collector device, or other type of energy system which relies upon solar radiation as a source for the generation of electricity or transfer of stored heat.

3. **Accessory Use:** Solar energy equipment shall be permitted as an accessory use in any zoning district upon receipt of a permit from the Zoning Officer.
  - A. Exclusions from zoning permit requirement.
    1. The installation of one (1) solar panel with a total area of less than eight (8) square feet.
    2. Repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.
4. **Application for Zoning Permit:** An applicant who seeks to install solar energy equipment shall submit an application for a zoning permit, as provided by the Borough. The application shall include photographs of the existing conditions of the property as well as renderings of the proposed solar energy equipment and a description of the screening to be provided for ground or wall mounted solar energy equipment.
5. **Review of Application:**
  - A. Upon receipt of a completed application for the installation of solar energy equipment, the Zoning Officer shall refer the application to the Borough Planning Commission and the Montgomery County Planning Commission to review the application and either recommend approval of the solar energy equipment or recommend alternatives to the applicant within thirty (30) days. Recommendations of the Planning Commissions shall be advisory only and shall not be considered as grounds for approving or denying an application.
  - B. If the Planning Commissions recommends approval of an application, the Zoning Officer shall issue a permit for the work if the application complies with the requirements of this Section. If the Planning Commissions recommend alternatives to the applicant, no permit shall be issued until the applicant formally acknowledges that he or she has received the recommendations of the Planning Commissions.
  - C. Regardless of the action of the Planning Commissions, the Zoning Officer shall have the

authority to impose reasonable conditions to safeguard the public health, safety and welfare.

6. **Criteria for the use of solar energy equipment:**

A. General.

1. Solar energy equipment shall be located in the least visibly obtrusive location where panels would be functional.
2. Solar energy equipment must comply with all setback and height requirements for the zoning district in which the property is located.
3. Non-functioning solar energy equipment shall be repaired or replaced within three (3) months of becoming nonfunctional.

B. Ground-mounted solar energy equipment.

1. Solar energy equipment shall only be located in the side or rear yard of a property.
2. Ground-mounted solar energy equipment may not exceed a height of ten (10) feet in height above the ground.
3. Solar energy equipment must be substantially screened from public view (including adjacent properties and public rights of way) by fencing, plantings, or a combination thereof, as determined by the Zoning Officer.
4. All exterior electrical and/or plumbing lines must be in placed in a conduit and buried below the surface of the ground.
5. Solar energy equipment shall not block any required parking areas, sidewalks or walkways.

C. Roof or wall-mounted solar energy equipment.

1. It is encouraged that roof-mounted solar energy equipment shall be installed in the plane of the roof (flush mounted) or made a part of the roof design (capping or framing is compatible with the color of the roof or structure). Mounting brackets shall be

permitted if the applicant can demonstrate that the existing pitch of the roof would render the solar energy equipment ineffective or would be impossible.

2. Solar energy equipment shall be located on a rear or side facing roof, as seen from the fronting street, unless the applicant can demonstrate that such installation would be ineffective or is impossible.
  3. Solar energy equipment shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof.
  4. All exterior electrical and/or plumbing lines must be painted in a color scheme that matches as closely as reasonably possible the color of the structure and the materials adjacent to the lines.
7. In the event of a conflict between this Section and the provisions of Chapter 23 of the then-current version of the International Residential Code (IRC), the IRC shall supercede this Section.

**SECTION 3.** The following Sections of Article 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, are hereby amended to permit solar energy equipment as an accessory use within each zoning district:

Section 318.4, Neighborhood Residential (Conservation);  
Section 319.4, Traditional Town Neighborhood (Conservation);  
Section 320.3, Downtown (Conservation);  
Section 332.4, Neighborhood Business (Gateway);  
Section 333.5, Downtown Gateway (Gateway);  
Section 334.4, Gateway East and Gateway West (Gateway);  
Section 335.3, Park (Gateway);  
Section 336.4, Flex Office (Contemporary);  
Section 337.4, Highway Business (Contemporary);  
Section 338.4, Heavy Manufacturing (Contemporary).

SECTION 4. Reenactment. In all other respects, the remaining provisions of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, to the extent not inconsistent herewith, are hereby reenacted and reordained.

SECTION 5. Severability. If any sentence, clause, section or other part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared as the intent of the Burgess and Town Council of the Borough of Pottstown that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 6. Effective Date. This ordinance shall become effective immediately upon enactment.

ENACTED and ORDAINED this 13TH day of JULY, 2009.

THE BURGESS AND TOWN COUNCIL  
OF THE BOROUGH OF POTTSTOWN

BY: Mark S. Rubin  
VICE President

ATTEST: Virginia L. Takach  
Secretary

Approved this 13TH day  
of JULY, A.D., 2009.

Sharon V. Thomas  
Mayor