

**JACKSON TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2024-\_\_\_\_\_**

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**AN ORDINANCE AMENDING CHAPTER 27 (ZONING) OF THE JACKSON  
TOWNSHIP CODE OF ORDINANCES TO INCLUDE REGULATIONS FOR  
SOLAR COMMERCIAL FACILITIES.**

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The Board of Supervisors of Jackson Township (the “Board”), Monroe County, Pennsylvania, hereby ordains and enacts the following:

**ARTICLE 1  
GENERAL PROVISIONS**

**Section 101. Short Title.** This Ordinance will be known as the Jackson Township Solar Energy Zoning Ordinance.

**Section 102. Legal Authority.** The Pennsylvania Second Class Township Code authorizes a board of supervisors to make and adopt ordinances that are necessary for the proper management, care and control of the township, and to maintain the health and welfare of the township and its citizens. *See* 53 P.S. § 66506 (“General Powers”). The Pennsylvania Municipalities Planning Code (“MPC”) authorizes a board of supervisors to plan for the development of the township through zoning, subdivision and land development regulations, and also to enact of amendments to zoning ordinances pursuant to certain procedural formalities. *See* 53 P.S. § 66516 (“Land Use Regulations”) and 53 P.S. § 10609 (“Enactment of Zoning Ordinance Amendments”). Zoning ordinance must be designed “[t]o promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare, [and] access to incident solar energy[...]”. *See* 53 P.S. § 66604(1).

**Section 103. Legislative Intent and Purpose.** Based on the above referenced legal authority, the Board desires to amend Chapter 27 (Zoning) of the Jackson Township Code of Ordinances (the “Code”) by modifying existing definitions and adding definitions of certain terms related to solar commercial facilities in the Township.

The Board finds that the regulations promulgated by this Ordinance are necessary to achieve the following purposes:

- A. To promote the safe, effective, and efficient use of solar commercial facilities in Jackson Township while protecting the public health, safety, and general welfare of surrounding land uses; and
- B. To provide property owners in Jackson Township with flexibility in satisfying their on-site energy needs; and

- C. To reduce overall energy demands within the Township and to promote energy efficiency; and
- D. To integrate alternative energy systems into the Township's neighborhoods and landscapes without diminishing quality of life in the neighborhoods.

#### **Section 104. Legal Conflicts.**

- A. All prior Township ordinances and resolutions, and parts thereof, that are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed and superseded by the terms of this Ordinance.
- B. If any term, provision, covenant or restriction contained in this Ordinance is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Ordinance shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The Township intends that this Ordinance would have been enacted had each and every invalid provision not been included.

### **ARTICLE 2 AMENDMENTS TO CHAPTER 27 OF THE CODE**

**Section 201. Amendment of § 27-401.5.G.** Section 27-401.5.G is amended to remove "Solar power generation, commercial (§ 27-1236)" as a conditional use in the Residential (R-1) District and replace with "Reserved."

**Section 202. Amendment of § 27-501.5.** Section 27-501.5 is amended to remove "Solar power generation, commercial (§ 27-1236)" as a conditional use in the Village (V) District.

**Section 203. Amendment of § 27-601.5.M.** Section 27-601.5.M is amended to remove "Solar power generation, commercial (§ 27-1236)" as a conditional use in the Recreation Commercial (RC) District and to replace with "Reserved."

**Section 204. Amendment of § 27-701.5.** Section 27-701.5 is amended to remove "Solar power generation, commercial (§ 27-1236)" as a conditional use in the Commercial (C) District and to replace with "Solar Commercial Facility (§ 27-1236)."

**Section 205. Amendment of § 27-801.5.** Section 27-801.5 is amended to remove "Solar power generation, commercial (§ 27-1236)" as a conditional use in the Industrial (I) District and to replace with "Solar Commercial Facility (§ 27-1236)."

**Section 206. Amendment of § 27-1007.1.E (Plans and Permits).** Section 27-1007.1.E(1) is amended to add a new subparagraph (c) to as follows:

- (c) An affidavit, signed and notarized by the applicant, shall be included on the plans, and shall read as follows: "I, (Applicant name) do hereby attest that the (solar/wind) energy system proposed on these plans is intended solely for meeting the energy needs of the

principal use to which the energy system is accessory. While excess energy may still be sold into the grid, the proposed energy system shall not be used as a solar commercial facility, as defined in §27-1602 of the Jackson Township Zoning Ordinance, as amended."

If the capacity of the accessory solar facility exceeds 18 kW, a certification shall be required to be signed by an engineer, licensed in the Commonwealth of Pennsylvania, stating the following: "I, (Engineer name), do hereby certify that the proposed solar facility has been designed to provide energy solely for meeting the energy demand of the existing or proposed principal use, and without the intent of commercial sale of energy that would constitute a Solar Commercial Facility, as defined in § 27-1602 of the Jackson Township Zoning Ordinance, as amended."

**Section 207. Definitions.** Section 1602 (Definitions) is hereby amended to amend, add, or delete definitions for the following terms, as follows:

**Amend:**

**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 § 27-1602
- 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**

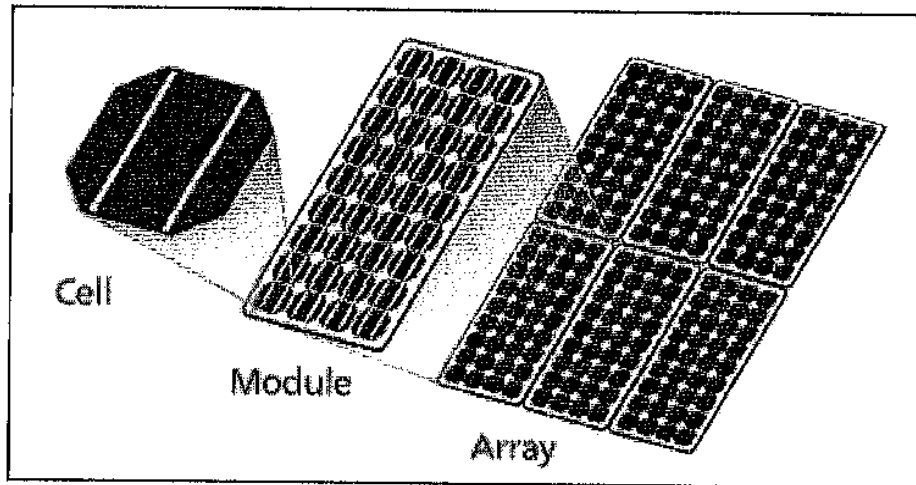
A solar photovoltaic cell, module, or array (see Figure 1 below), or solar hot air or water collector device which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

**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.

*Figure 1:*



**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 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.

**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 a 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.

### **Delete:**

## **SOLAR ENERGY STORAGE FACILITY**

## **SOLAR POWER GENERATION, COMMERCIAL**

**Section 208. Amendment of § 27-1236.** Delete the existing § 27-1236 in its entirety and replace it with the following:

### **§ 27-1236. Solar Commercial Facility**

1. 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). An SCF shall be permitted only in the districts as provided by the Use Regulations.

#### **A. Purposes:**

- (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. An SCF shall also meet the requirements of Chapter 22 (Subdivision and Land Development), including, but not limited to, land development requirements.

C. Application requirements. In addition to the requirements set forth in § 27-1103, 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 Jackson Township 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.
- (8) Stormwater Management Plan. A Stormwater Management Plan is required to demonstrate compliance with Chapter 23, Stormwater Management Ordinance.

- (9) Noise Study. A noise study shall be completed to demonstrate compliance with noise standards set forth in §27-1009.1.F.
- D. Development standards, requirements, and criteria. The following standards, requirements, and criteria, without limitation, shall apply to an 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 Jackson Township 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 § 27-1012, § 27-1009.1.A, § 27-1009.1.B, and Chapter 22, Subdivision and Land Development
  - (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 Chapter 22, Attachment 4.
    - 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 § 27-1005.

- (5) Impervious coverage: Solar arrays shall be considered impervious coverage for purposes of stormwater calculations, fee calculation, and lot coverage calculations.
- (6) 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, an SCF shall not display signage of any kind as defined in § 27-1702, Definitions.
- (7) 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 aboveground utility lines are proposed.
- (8) Bulk and coverage. An 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	50%
Minimum lot area	10 acres

- (9) Lot coverage. The cumulative surface area of solar arrays, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
- (10) 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 § 27-1009.1.H.
- (11) 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 for design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), IEEE, Solar Rating and Certification Corporation (SRCC), ETL, 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.

(12) The SCF shall be construed to comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended, and any regulations adopted by the Pennsylvania Department of Labor and Industry as they relate to the UCC, except where an applicable industry standard has been approved by the Department of Labor and Industry under its regulatory authority.

(13) 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.

(14) 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 an SCF or any of its solar energy system(s) shall comply with the following, without limitation:

(1) Notification of township. If an 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 § 27-1236-1.E(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.
  - a. 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:
    - i. 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.
    - ii. 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.
    - iii. A performance bond executed between the applicant and a corporate surety licensed to do business in the Commonwealth of Pennsylvania.
  - b. The amount of financial security shall be increased every five 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 § 27-1236.1.E(3), and remain in place for as long as the SCF or its solar energy system(s) exists 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 revegetation have been satisfactorily completed.

- (5) Landowner responsibility. If the SCF owner or operator of its solar energy system(s) fails to complete decommissioning and revegetation within the time period stated herein, then decommissioning and revegetation 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 revegetation within the prescribed periods, then the Township may take such measures and use such of the financial security as necessary to complete decommissioning and revegetation. 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 revegetation 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 § 27-1236.1.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 Chapter 22, Attachment 4
  - 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, the 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 fifty-foot setback per § 27-1236.1.D(8).
- I. Solar commercial facility as a second principal use. An SCF shall be permitted on a property with an existing principal use subject to the following standards:
  - (1) The minimum lot area, minimum setbacks and maximum height required by this § 27-1236 or 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.

**ARTICLE 3  
EFFECTIVE DATE**

**Section 301. Effective Date.** This Ordinance will be effective 5 days after its enactment, and will remain in force until modified, amended, or rescinded by Jackson Township, Monroe County, Pennsylvania.

**ENACTED AND ADOPTED** by the Board of Supervisors of Jackson Township, Monroe County, Pennsylvania, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**BOARD OF SUPERVISORS OF  
JACKSON TOWNSHIP**

\_\_\_\_\_  
Mark Werkeiser, Chair

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Robin Hartshorn, Vice Chair

(TOWNSHIP SEAL)

\_\_\_\_\_  
Matthew Neeb, Supervisor

**SECRETARY'S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 2024-\_\_\_\_\_ enacted by a majority vote of the Board of Supervisors of Jackson Township at a properly advertised meeting of such Supervisors duly held on \_\_\_\_\_, 2024. Present at the meeting were, and a record of their vote was, as follows:

Name	Present	Aye	Nay
Mark Werkeiser	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robin Hartshorn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matthew Neeb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Further, be it certified that public notice of said meeting was given in the manner provided by law; that said Ordinance shall be duly recorded upon the Minutes of Jackson Township, has not been amended or rescinded, and is in full force and effect this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Dated: \_\_\_\_\_, 2024

\_\_\_\_\_  
Renee Miller, Secretary