ORDINANCE NO. 3 of 2025

UNION TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE UTLITY-SCALE BATTERY ENERGY STORAGE SYSTEMS AND TO PROVIDE DEFINITIONS THEREOF.

WHEREAS, the Board of Supervisors of Union Township, Washington County, Pennsylvania, have previously enacted the Union Township Zoning Ordinance; and

WHEREAS, the Pennsylvania Municipalities Planning Code Act of July 31, 1968, as amended, 53 P.S. §10101 et seq., enables a municipality through its Zoning Ordinance to regulate the use of property and to promote the conservation of energy through access to and use of renewable energy resources; and

WHEREAS, Union Township seeks to promote the general health, safety and welfare of the community by adopting and implementing an amendment to the Zoning Ordinance providing for access to and use of Battery Energy Storage Systems; and

NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Union Township, Washington County, Pennsylvania, as follows:

Section 1. Title.

This Ordinance shall be known as the "Union Township Battery Energy Storage Systems Ordinance of 2025."

Section 2. Amendment of Article II, Section 280-7 of the 2001 Union Township Zoning Ordinance entitled "Definitions."

Section 280-7 of the 2001 Union Township Zoning Ordinance is hereby amended to add or amend the following definitions to the ordinance:

BATTERY MANAGEMENT SYSTEM: An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and

temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES: One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").

UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEM: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system. Utility-scale battery energy storage systems are typically measured in megawatts (1 megawatt = 1,000 kilowatts). Utility-scale battery energy storage systems have a capacity of more than 5 megawatts.

Section 3. Amendment of Chapter 280 Appendix A of the 2001 Union Township Zoning Ordinance entitled "Table of Authorized Uses (Appendix A) of the 2001 Union Township Zoning Ordinance.

"Appendix A" of the 2001 Union Township Zoning Ordinance is hereby amended to add "Utility-Scale Battery Energy Storage Systems" as Conditional Uses, in all Zoning Districts.

Section 4. Amendment of Article XVI Section 280-102 of the 2001 Union Township Zoning Ordinance entitled "Standards for Specific Uses" of the 2001 Union Township Zoning Ordinance to add a new section 280-102(A)(42) for regulation of Utility-Scale Battery Energy Storage Systems as Conditional Uses.

Section 280-102 of the 2001 Union Township Zoning Ordinance is hereby amended to add "Utility-Scale Battery Energy Storage Systems" to the list of "Specific Uses" under Section 280-102(A)(42), with related subsections. Section 280-102 of the 2001 Union Township Zoning Ordinance is hereby amended to add the following provisions to the Zoning Ordinance:

280-102(A)(42) - General Provisions. All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

a. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems."

b. The Township may enforce any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law if the Utility-Scale Battery Energy Storage System does not comply with this Ordinance.

c. Utility-Scale Battery Energy Storage Systems are permitted in the Township as a conditional use in all Zoning Districts.

280-102(A)(42)(1) - Application Requirements. The applicant for a Utility-Scale Battery Energy Storage System must provide the Township with all of the following:

a. Application fee in an amount set by resolution of the Township Board, and a complete application for Conditional Use Approval must be submitted.

b. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.

c. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.

d. Current photographs of the subject property.

e. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, buffering and screening, drainage facilities, easements, floodplains, bodies of water, proposed access routes, and road

rights of way. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.

f. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.

g. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drainage facilities and addressing stormwater management, which is subject to the Township's review and approval.

h. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.

i. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.

j. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

k. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

l. A fire protection plan, which identifies the fire risks associated with the Utility- Scale Battery Energy Storage System; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting

(i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.

m. A transportation plan for construction and operation phases, including any applicable agreements with the Pennsylvania Department of Transportation, which is subject to the Township's review and approval.

n. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

o. Proof of compliance with all applicable Pennsylvania Department of Environmental Protection ("DEP") regulations, must be provided to the Township, who in turn will review and grant approvals at their own discretion.

p. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

280-102(A)(42)(2) - System and Location Requirements.

The site development requirements shall meet or exceed all of the requirements in all zoning districts and all of the following:

a. *Lighting.* Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The Utility-Scale Battery Energy Storage System

must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

b. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Utility- Scale Battery Energy Storage System.

c. *Noise.* The noise generated by a Commercial Utility-Scale Battery Energy Storage System must not exceed any acceptable level as defined by the Township's ordinances.

d. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

e. *Drainage Facility Inspections.* The Utility-Scale Battery Energy Storage System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drainage facilities at least once every three years by means of robotic camera, with the first inspection occurring before the Utility-Scale Battery Energy Storage System is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

f. *Fire Protection.*

i. Before any construction of the Utility-Scale Battery Energy Storage System begins, the Township's fire department (or fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there are sufficient fire suppression tools at the Township's disposal to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township Supervisor or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Utility-Scale Battery Energy Storage System must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.

ii. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).

iii. The Utility-Scale Battery Energy Storage System must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).

iv. Any Utility-Scale Battery Energy Storage System that includes energy storage that uses lithium or lithium-ion batteries shall be required to use an automatic fire suppression system designed to suppress lithium and lithium-ion fires. The design and use of the aforementioned fire suppression system shall be to reasonable satisfaction of the Township.

g. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least $5 million per occurrence. Union Township shall be listed as an additional insured on the policy at all times.

h. *Permits.* All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating. A building permit from Washington County is required for construction of a Utility-Scale Battery Energy Storage System, regardless of whether the applicant or operator is otherwise exempt under state law.

i. *Decommissioning.* If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and

restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of one (1) year.

j. *Financial Security.* To ensure proper decommissioning of a Commercial Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond or escrow payment in an amount equal to 150% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

k. *Extraordinary Events.* If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

l. *Annual Report.* The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:

    i. Current proof of insurance;

    ii. Verification of financial security; and

    iii. A summary of all complaints, complaint resolutions, and extraordinary events.

m. *Inspections.* The Township may inspect a Utility-Scale Battery Energy Storage

System at any time by providing 24 hours advance notice to the applicant or operator.

n. *Transferability.* A conditional use approval for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

o. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, may pursue any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

280-102(A)(42)(3) Utility-Scale Battery Energy Storage Systems

a. *Setbacks.* Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	**Setback Distance**
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	minimum of 300 feet from property lines and 1,000 feet from any adjacent lot's existing residential structure

b. *Installation.* The Utility-Scale Battery Energy Storage System must comply with the version of National Fire Prevention Association ("NFPA") 855 "Standard for the

Installation of Stationary Energy Storage Systems" in effect on the effective date of the amendatory act that added this section or any applicable successor standard.

c. *Noise.* The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess any acceptable level as defined by the Township's ordinances.

   a. Compliance with the Township's ordinance is when the CNEL is equal to or less than the following limits:

      i. 60 dBA CNEL for outdoor noise exposure levels for private residential areas in R1, R2, R3, RD zoning areas.

      ii. 65 dBA CNEL for office buildings, commercial, professional and mixed-use developments in C1, and C2 zoning areas.

      iii. 75 dBA CNEL for outdoor levels for recreational areas, cemeteries, industrial manufacturing, utilities and agricultural areas in C3, AP, SDH1, and MUD zoning areas

d. *Lighting.* The Utility-Scale Battery Energy Storage System must implement dark sky-friendly lighting solutions.

e. *Environmental Regulations.* The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.

f. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage System owner must pay the Township $2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 5. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 6. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 7. Effective Date.

This Ordinance shall be effective five (5) days after its enactment.

ENACTED AND ORDAINED by the Board of Supervisors of Union Township, Washington County, Pennsylvania, this 27 day of August, 2025.

ATTEST:

Maryanne Kims, Treasurer

UNION TOWNSHIP

By: _____
Michalle M. Dupree, Chairman

(SEAL)