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BOARD OF SUPERVISORS**



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ORDINANCE NO. 001 OF 2011

**AN ORDINANCE OF THE TOWNSHIP OF PENN, CUMBERLAND COUNTY,
PENNSYLVANIA, FOR THE PURPOSE OF REGULATING CERTAIN RENEWABLE
ENERGY GENERATING SYSTEMS AND FACILITIES.**

SECTION I: INTENT

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community
- B. Establish procedures and requirements for installation of renewable energy systems in Penn Township and penalties for non-compliance with the provisions of this ordinance.

RENEWABLE ENERGY ORDINANCE

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SECTION II: SOLAR ENERGY

2.1 Definitions

- A. **Commercial Solar Energy System** – An electric generating facility, with the purpose of electrical supply consisting of one or more solar panels and other associated buildings, structures and electrical infrastructure, for the primary purpose of generating electricity for transmission to the power grid for income.
- B. **Private Solar Energy System** - An electric generating facility, with the purpose of electrical supply consisting of one or more solar panels and other associated buildings, structures and electrical infrastructure, for the primary purpose of generating electricity for use on the owners property.
- C. **Solar Energy** – Radiant energy (direct, diffuse, and reflected) received form the sun.

2.2 Solar Energy System General Provisions:

- A. A zoning Permit is required prior to any construction of a solar energy system
- B. The applicant shall demonstrate through project planning and proposed mitigation that the proposed project's impact will be minimized for surrounding properties. This may include, but not be limited to; information regarding site selection, facility design, appearance, buffering and screening of ground mounted electrical infrastructure.
- C. Construction of any solar energy system shall comply with all applicable rules, laws, and regulations of the federal Aviation Administration.
- D. All solar energy systems shall conform to the Pa Uniform Construction Code.
- E. Solar energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration.
- F. Solar energy systems shall not display any advertising, except for reasonable identification of the product manufacturer
- G. Transmission, power and plumbing lines shall be placed underground.

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2.3 Private Solar Energy System

- A. Noise from any solar energy system shall not exceed 15 decibels at the lot lines, unless all affected adjacent property owners have executed a non-disturbance easement, covenant, or consent.
- B. All electrical components of any solar energy system shall conform to relevant and applicable local, state and national codes.
- C. No solar energy system, when combined with existing impervious cover, may exceed the percent of impervious cover for the zoning district.
- D. Solar energy systems shall meet the accessory structure setbacks that apply in the zoning district.
- E. No solar energy system shall be attached to a tree, or any other natural object, or any other structure not intended to support such a system.
- F. No solar energy system shall be installed immediately adjacent to a swimming pool or other open body of water.
- G. A solar energy system mounted on a roof shall conform to the height regulations of the zoning district.

2.4 Commercial Solar Energy System

- A. A commercial solar energy system is considered land development, and the developer must submit a land development plan that meets the requirements of the Penn Township Subdivision and Land Development Ordinance.
- B. Noise from any commercial solar energy system shall not exceed 50 decibels at the lot line adjacent to any non-residential lot or zoning district, and shall not exceed 15 decibels at the lot line adjacent to any residential lot or zoning district.
- C. All electrical components of commercial solar energy systems shall conform to relevant and applicable local, state and national codes, such as but not limited to, NEC, Underwriters Laboratories, IEEE, Solar Rating and Certification Corporation and ETL.
- D. The following project information shall be submitted to the Township for every proposed commercial solar energy system:
 - 1. Project narrative including the following: an overview of the project, project location, dimensions, approximate generating capacity, number of solar panels and percent of impervious cover, representative types and heights of structures, and description of other associated buildings and electrical infrastructure.
 - 2. An affidavit or similar evidence of agreement between the property owner and the solar energy facility owner or operator, demonstrating permission to apply for necessary permits for construction and operation of a solar energy system.

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3. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.
 4. A site plan showing the proposed location of each system component, property lines, setback lines, access roads and the location of any associated buildings including equipment, cabling, transmission lines and substations.
 5. A viewshed analysis, illustrating views of the proposed facility from multiple angles.
 6. A design certification by a certified engineer, consisting of the proposed foundation design and analysis of soil conditions.
- E. Commercial solar energy systems shall not exceed a maximum height of 15 feet, measured from ground level to the tallest point on the facility.
- F. All commercial solar systems and any associated accessory equipment shall comply with all area, buffering, parking, landscaping and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that may apply.
- G. Secure perimeter fencing shall be installed around the facility. The fencing shall not be constructed within any required setback or landscape buffer. The fencing shall be of chain-link construction with rubberized coating in neutral earth-tone colors such as white, off-white, tan or gray.
- H. The following requirements are applicable for decommissioning the solar energy system:
1. Decommissioning funds shall be posted and maintained with the Township in an amount equal to one hundred twenty five percent (125%) of the estimated decommissioning costs as long as the facility exists, regardless of change of ownership of the facility or property on which it sits.
 2. Decommissioning shall include removal of all solar energy system components, buildings, cabling, electrical infrastructure, roads, foundations and any other associated appurtenances. Disturbed earth shall be graded and reseeded, unless the property owner requests in writing that the access roads or other land surface areas not be restored.
 3. An independent and licensed professional engineer shall estimate the total cost of decommissioning, without regard to salvage value of the equipment.
 4. Decommissioning funds shall be posted and maintained with a bonding company authorized to conduct such business within Pennsylvania and approved by the Township. The bond shall be acceptable to the Township Solicitor.
 5. If a commercial solar system is unused for a period of twelve (12) consecutive months, the owner, or landowner, shall at their expense, complete the decommissioning within six (6) months.
 6. If the owner, operator, or landowner of a commercial solar energy system fail to appropriately complete decommissioning, the Township may take such action as necessary to complete the decommissioning.

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7. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their heirs, successors, and assigns, that the Township may take such action as necessary to implement the decommissioning.

SECTION III: WIND ENERGY

3.1 Definitions:

- A. **Commercial Wind Energy System** – An electric generating facility, with the purpose of electrical supply consisting of one or more wind turbines and other associated buildings, structures and electrical infrastructure, for the primary purpose of generating electricity for transmission to the power grid for income.
- B. **Private Wind Energy System** - An electric generating facility, with the purpose of electrical supply consisting of one or more wind turbines and other associated buildings, structures and electrical infrastructure, for the primary purpose of generating electricity for use on the owners property.
- C. **Wind power** - is the conversion of wind energy into a useful form of energy

3.2 Wind Energy System General Provisions:

- A. A zoning Permit is required prior to any construction of a wind energy system
- B. The applicant shall demonstrate through project planning and proposed mitigation that the proposed project's impact will be minimized for surrounding properties. This may include, but not be limited to; information regarding site selection, facility design, appearance, buffering and screening of ground mounted electrical infrastructure.
- C. Construction of any wind energy system shall comply with all applicable rules, laws, and regulations of the federal Aviation Administration.
- D. All wind energy systems shall conform to the Pa Uniform Construction Code.
- E. Wind energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration.
- F. Wind energy systems shall not display any advertising, except for reasonable identification of the product manufacturer
- G. Transmission, power and plumbing lines shall be placed underground.
- H. Noise from any wind energy system shall not exceed 50 decibels at the lot line adjacent to any non-residential lot or zoning district, and shall not exceed 15 decibels at the lot line adjacent to any residential lot or zoning district.

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- I. The color of the wind energy components shall be a neutral tone such as white, off-white, tan or gray.
- K. There shall be no components integral to the facility that facilitates unauthorized access to the structures, such as ladders or steps.
- L. All access doors shall be located or fenced as appropriate, to prevent unauthorized access.

2.3 Private Wind Energy System

- A. All electrical components of any wind energy system shall conform to relevant and applicable local, state and national codes.
- B. A wind energy system mounted on a roof shall conform to the height regulations of the zoning district.
- C. Setbacks:
 - 1. All setbacks shall be measured from the center of any wind energy system base to the nearest point on the foundation of a building or property line.
 - 2. From off-premise buildings: 1.5 times the height of the wind energy component at its tallest point.
 - 3. From property lines: 1.1 times the height of the wind energy component at its tallest point.
 - 4. From public roads: 1.1 times the height of the wind energy component at its tallest point.

2.4 Commercial Wind Energy System

- A. A commercial wind energy system is considered land development, and the developer must submit a land development plan that meets the requirements of the Penn Township Subdivision and Land Development Ordinance.
- B. Noise from any commercial wind energy system shall not exceed 50 decibels at the lot line adjacent to any non-residential lot or zoning district, and shall not exceed 15 decibels at the lot line adjacent to any residential lot or zoning district.
- C. All electrical components of commercial wind energy systems shall conform to relevant and applicable local, state and national codes, such as but not limited to, NEC, Underwriters Laboratories, IEEE and ETL.
- D. The following project information shall be submitted to the Township for every proposed commercial solar energy system:
 - 1. Project narrative including the following: an overview of the project, project location, dimensions, approximate generating capacity, representative types and heights of structures, and description of other associated buildings and electrical infrastructure.

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2. An affidavit or similar evidence of agreement between the property owner and the wind energy facility owner or operator, demonstrating permission to apply for necessary permits for construction and operation of a solar energy system.
 3. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.
 4. A site plan showing the proposed location of each system component, property lines, setback lines, access roads and the location of any associated buildings including equipment, cabling, transmission lines and substations.
 5. A viewshed analysis, illustrating views of the proposed facility from multiple angles.
 6. A design certification by a certified engineer, consisting of the proposed foundation design and analysis of soil conditions.
- E. Commercial wind energy systems shall not exceed a maximum height of 120 feet, measured from ground level to the tallest point.
- F. All commercial wind energy systems and any associated accessory equipment shall comply with all area, buffering, parking, landscaping and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that may apply.
- H. Any individual wind energy component shall be separated from any other wind energy component by a minimum of 1.1 times the height of the component measured from ground level to the highest point.
- I. Decommissioning:

The following requirements are applicable for decommissioning the wind energy system:

1. Decommissioning funds shall be posted and maintained with the Township in an amount equal to one hundred twenty five percent (125%) of the estimated decommissioning costs as long as the facility exists, regardless of change of ownership of the facility or property on which it sits.
2. Decommissioning shall include removal of all wind energy system components, buildings, cabling, electrical infrastructure, roads, foundations and any other associated appurtenances. Disturbed earth shall be graded and reseeded, unless the property owner requests in writing that the access roads or other land surface areas not be restored.
3. An independent and licensed professional engineer shall estimate the total cost of decommissioning, without regard to salvage value of the equipment.
4. Decommissioning funds shall be posted and maintained with a bonding company authorized to conduct such business within Pennsylvania and approved by the Township. The bond shall be acceptable to the Township Solicitor.

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5. If a commercial wind system is unused for a period of twelve (12) consecutive months, the owner, or landowner, shall at their expense, shall complete the decommissioning within six (6) months.
6. If the owner, operator, or landowner of a commercial wind energy system fail to appropriately complete decommissioning, the Township may take such action as necessary to complete the decommissioning.
7. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their implement the decommissioning.

SECTION IV: OUTDOOR WOOD-FIRED BOILERS

4.1 Definitions

- A. **Outdoor Wood-fired Boilers (OWB)** – Remotely located free-standing wood-burning devices that heat liquid (water or water/antifreeze mixture) to provide heat and hot water to one or more structures.
- B. **Phase 2 Outdoor Wood-Fire Boiler** – OWBs meeting the EPA voluntary program Phase 2 emission standard of 0.32 pounds particulate matter per million BTU output (or lower) and labeled accordingly.
- C. **Stack** – OWB smoke stack
- D. **Clean Wood** – Wood that has been dried for at least six months and is not wet, rotted, diseased, or moldy
- E. **Nuisance** – Smells, sounds, pollution or any other hazard that extends past the boundaries of the property

4.2 Outside Wood-Fired Boiler General Provisions:

- A. All OWB installations require a zoning permit.
- B. All OWBs sold, distributed or installed for use in the Township after the effective date of this ordinance must be Phase 2 certified.
- C. All OWBs must be installed at least 50 feet from any property line.
- D. All OWBs must have a permanently installed stack that extends at least 10 feet above the ground and is installed according to manufacturer's specifications.
- E. All OWBs must comply with applicable Commonwealth, county and local laws and regulations.
- F. All OWBs shall be equipped with a properly functioning spark arrester.
- G. Do not operate the OWB between the dates of **May 1 and Sept 30**.

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- H. Operation of an OWB shall not cause a nuisance to other properties

4.3 Types of Fuel Permitted

All new and existing OWBs shall operate using the following fuels:

- A. Clean wood
- B. Wood pellets made from clean wood

4.4 Unacceptable Burning Practices

- A. Never start a fire with gasoline, kerosene, charcoal starter, or a propane torch
- B. Never burn garbage, cardboard, plastics, magazines, tires, furniture, animal carcasses or manure, construction wastes, yard wastes.
- C. Never burn plywood, Particle Board, or coated, painted or pressure treated wood.

SECTION V: ENFORCEMENT

- 5.1 Sanctions** - Any person, whether as principle or agent, who violates this Ordinance or assists or abets its violation, shall upon conviction thereof before any District Justice, be sentenced to pay a fine of not less than One Hundred and no/100 (\$100.00) Dollars, nor more than One Thousand and no/100 (\$1,000.00) Dollars, together with the costs of prosecution, and/or undergo imprisonment for a period of ninety (90) days. Each violation shall constitute a separate offense, for which a summary conviction may be sought.

- 5.2 Equitable and Other Remedies** - No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.

- 5.3 Liability** - The Township of Penn and its agents, officials, and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this Ordinance. The individual person or party responsible for any such fire shall bear sole responsibility for any damages caused as a result thereof.


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SECTION VI - MISCELLANEOUS


- 6.1 The provisions of this Ordinance are severable. If any section, sentence, clause or phrase of this Ordinance shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sentences, clauses, or phrases of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Penn Township that this Ordinance would have been adopted had such invalid or unconstitutional section, sentence, clause or phrase not been included herein. Furthermore, it is the intent of this Ordinance to be supplementary to and not contrary to any laws of the Commonwealth of Pennsylvania or regulations of any of its executive agencies.
- 6.2 All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed
- 6.3 This Ordinance shall take effect and be enforced from and after its approval as provided by law


DULY ENACTED and ORDAINED THIS 10 DAY OF March 2011,

By the Supervisors of Penn Township in public session duly assembled


GARY MARTIN, CHAIRMAN


KENNETH SHEAFFER, VICE CHAIRMAN


AMOS SEIDERS, SUPERVISOR

ATTEST: 
TINA MCCOMMON, SECRETARY