

Ordinance of the Borough of Curwensville,  
Clearfield County, Pennsylvania  
Ordinance No. 504 of 2024

AN ORDINANCE OF CURWENSVILLE BOROUGH, CLEARFIELD COUNTY, PENNSYLVANIA PROVIDING FOR THE CONSTRUCTION, OPERATION, AND DECOMMISSIONING OF SOLAR ENERGY SYSTEMS, SMALL SOLAR ENERGY FACILITIES, AND WIND ENERGY SYSTEM

**I. INTRODUCTION**

*WHEREAS*, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§ 10101 et seq., enables a municipality through access to and use of renewable energy resources; and

*WHEREAS*, the Borough of Curwensville, Clearfield County, seeks to promote the general health, safety, and welfare of the community by adopting and implementing this Ordinance providing for access to and use of solar energy systems and wind energy systems; and

*WHEREAS*, the purpose of this Ordinance is to set requirements for solar energy systems and wind energy systems;

**NOW, THEREFORE**, the Borough of Curwensville, Clearfield County, Pennsylvania, hereby enacts, adopts, and ordains the following:

**II. Solar Energy Systems**

- A. **PURPOSE:** The purpose of this Section is to provide for the construction, operation, and decommissioning of Solar Energy Systems in Curwensville Borough, subject to reasonable conditions that will protect public health, safety and welfare.
- B. **DEFINITIONS**
1. *ACCESSORY SOLAR ENERGY SYSTEM (ASES):* (often referred to as residential solar)  
An area of land or other area 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 free-standing ground, or roof mounted, solar arrays or modules, or solar

related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

2. *PRINCIPAL SOLAR ENERGY SYSTEM (PSES)*: (often referred to as Solar Farm or Commercial Solar) An area of land or other area 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 off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted, solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and other appurtenant structures.
3. *SOLAR ENERGY*: Radiant energy (direct, diffuse and/or reflective) received from the sun.
4. *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.
5. *SOLAR ARRAY*: A grouping of multiple solar modules with the purpose of harvesting solar energy.
6. *SOLAR CELL*: The smallest basic solar electric device which generates electricity when exposed to light.
7. *SOLAR MODULE*: A grouping of solar cells with the purpose of harvesting solar energy.
8. *SOLAR RELATED EQUIPMENT*: Items including a solar photovoltaic cell, module, or array, or 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.

#### C. APPLICABILITY

1. This Section applies to only Principal Solar Energy systems proposed to be constructed after the effective date of this Section, except this Section is not intended to apply to Accessory Solar Energy Systems constructed primarily for residential or accessory use.

#### D. PERMITTED USES

1. Principal Solar Energy systems shall be considered a conditional use for the following Zone (I-1) Industry.
2. Accessory Solar Energy systems shall be allowed in all Zones and may be installed with the necessary construction, electrical and/or mechanical permit(s).

#### E. PERMIT REQUIREMENTS

1. No Principal Solar Energy system, or addition to an existing Principal Solar Energy system, shall be constructed or located within Curwensville Borough, unless a Zoning Permit has been issued to the Facility Owner or Operator approving construction of the facility under this Section.
2. Prior to issuance of a Zoning Permit the Applicant will ensure that all government permits required by State and Federal Law have been obtained,
3. Any physical modification to an existing and permitted Principal Solar Energy system that materially alters the size, type and number of Solar Cells or other equipment shall

require additional permitting under this Section. Like-kind replacements shall not require a permit modification.

4. Prior to the issuance of a zoning permit, PSES applicants 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 : (a) 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 (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
5. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the Curwensville Borough stormwater management regulations.
6. PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for storm water management.
7. A building permit is required for construction of any Accessory Solar Energy system within the Borough.

#### F. PERMIT APPLICATION

1. The permit application shall demonstrate that the proposed Principal Solar Energy system will comply with this Section.
2. Among other things, the application shall contain the following:
  - a) A narrative describing the proposed Principal Solar Energy system, including an overview of the project; the project location; the approximate generating capacity of the Principal Solar Energy system; the approximate number, representative types and height or range of heights of Solar components to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
  - b) An affidavit or similar evidence of agreement between the property owner and the System Owner or Operator demonstrating that the System Owner or Operator has the permission of the property owner to apply for necessary permits for construction and operation of the Principal Solar Energy system.
  - c) Identification of the properties on which the proposed Principal Solar Energy system will be located, and the properties adjacent to where the Principal Solar Energy system will be located.
  - d) A site plan showing the planned location of each Solar Component, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Principal Solar Energy system to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback. Must meet Zoning Restrictions - Height restrictions of 40ft.
  - e) Documents related to decommissioning including a schedule for decommissioning.
  - f) Other relevant studies, reports, certifications and approvals as may be reasonably requested by Curwensville Borough to ensure compliance with this Section.
3. Throughout the permit process, the Applicant shall promptly notify Curwensville Borough of any changes to the information contained in the permit application.

4. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

#### G. SETBACKS AND HEIGHT RESTRICTIONS

1. *Lot Size*: A PSES shall require a lot size of not less than ten (10) acres.
2. *Setbacks*: A PSES shall be setback distance of not less than 100 feet to any property line
3. *Height*:
  - a) Ground mounted PSES shall not exceed 20 feet in height.
  - b) A Solar Energy system mounted on a roof shall conform to the height of the Zone where the Solar Energy system is installed.
4. *Lot Coverage*: The surface area of the arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. The PSES shall not exceed the maximum lot coverage requirements of the underlying zoning district 60% I1

#### H. DESIGN AND INSTALLATION

1. *Compliance with Industry Standards*: The PSES and ASES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), , Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.
2. *Maintain in Good Working Order*: Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for appropriate enforcement actions by Curwensville Borough in accordance with applicable ordinances.
3. *Underground Requirements*: All on-site transmission and plumbing lines shall be placed underground to the extent feasible. All electrical cabling between the Solar Facilities and the utility system connection shall be buried or concealed.
4. *Utility Notification*: The owner of a PSES shall provide Curwensville Borough with written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.
5. *Signage*: No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations. Appropriate safety/warning signage concerning high voltage shall be placed on ground-mounted electrical devices, equipment, and structures.
6. *Glare*:
  - a) All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

- b) The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
  - c) Glare from the Solar Facility determined by Curwensville Borough to be a nuisance to adjacent properties or roadways shall be prohibited. The Solar facility owners shall remediate any nuisance glare claims within six (6) months of being notified.
7. *Noise Study:* A noise study shall be performed and included in the zoning/building permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 55dBA, as measured at the property line.
  8. *Tree and Landscaping Removal:* No trees or other landscaping otherwise required by the Borough ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES. PSES shall be screened from any adjacent property or roadway. The screen shall consist of plant materials that provide an effective visual screen and be maintained permanently. Any plants that do not live must be replaced within six (6) months. PSES shall be completely enclosed by a minimum eight (8) foot high-security fence. PSES shall not be artificially illuminated except to the extent required for safety or applicable federal, state, or local authority. Site lighting shall be directed downward and shielded to avoid glare on public roads and adjacent properties. No lighting shall project onto any neighboring properties of roadway. PSES site shall have the grass area maintained three times a year. Once in the Spring, Summer, and Fall months.
  9. *Maintenance Access:* A minimum twenty-five (25) feet wide access road shall be provided from a state or municipal road into the site, and a minimum twenty (20) feet wide driveway shall be provided between the solar arrays to allow access for maintenance vehicles, emergency management vehicles, and fire apparatus.
  10. *Contact Information:* The PSES owner and/or operator shall provide current contact information to the Borough which includes at minimum a phone number and identifies a responsible person for the Borough or public to contact regarding emergencies, inquiries and complaints throughout the life of the project. The PSES owner and/or operator shall submit to the Borough a written plan outlining procedures on how complaints will be addressed. For the life of the project, the current contact information shall be conspicuously posted upon locations throughout the property.
  11. *Solar Easements:* Where a subdivision or land development proposes a PSES, solar easements may be provided. If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant and/or property owner for an ASES, such matter shall be carried out as a civil agreement between or among all applicable parties. Curwensville Borough shall not be a party to any agreement designed to provide a solar easement, nor shall Curwensville Borough be responsible for ensuring the maintenance of any solar easement. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance.
  12. *Decommissioning:*

- a) The PSES owner is required to notify Curwensville Borough immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
- b) The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES 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. The owner shall also restore the land to its original condition, including forestry plantings of the same type/variety and density as the original. If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames, Curwensville Borough may complete the decommissioning and land restoration at the owner's expense.
- c) At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to Curwensville Borough to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning cost provided that at no point shall decommissioning funds be less than 100% of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or Commonwealth of Pennsylvania chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth of Pennsylvania and is approved by Curwensville Borough. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee, or other form of financial assistance as may be acceptable to the Borough. If neither the facility owner nor operator completes decommissioning within the prescribed period, then the Borough may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement, their respective heirs, successors, and assigns that the Borough may take such action as necessary to implement the decommissioning plan. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and Curwensville Borough concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality to implement the decommissioning plan.

## I. USE OF PUBLIC ROADS

1. The Applicant shall identify all state and local public roads to be used within the Curwensville Borough to transport equipment and parts for construction, operation or maintenance of the Solar Energy Facility.
2. When required the Applicant will obtain from Curwensville Borough a Heavy Load Permit and/or the proper state government permit.

J. LOCAL EMERGENCY SERVICES

1. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).
2. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Solar Energy Facility.

K. REMOVAL & DISPOSAL

1. Commercial and/or Residential at the time of removal and disposal of solar panels, upon request by the Borough, landfill receipts shall be provided to the Curwensville Borough Office within seven (7) days.

Definition: Small Solar Energy Facility – a small solar energy facility is accessory to the principal use(s) on the same lot. The sale and distribution of excess available energy and shall be incidental and not the primary purpose of the facility.

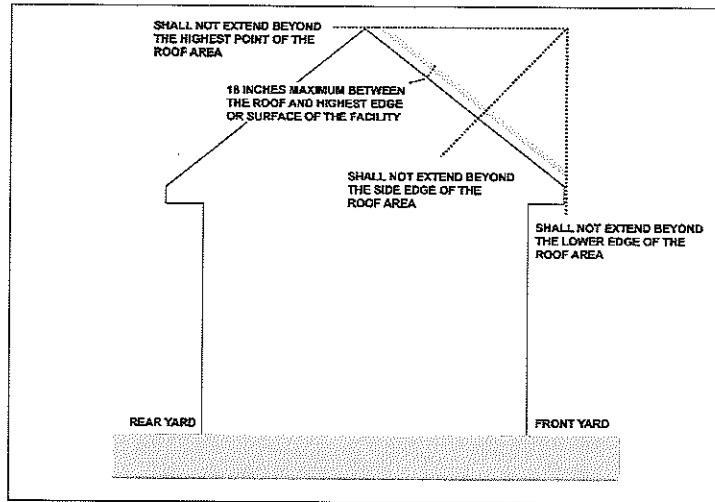
Permitted by right in all Districts – will have conditions attached.

Zoning Compliance Certificates will be issued for these installations.

### **III. Small Solar Energy Facility**

Small Solar Energy Facilities are permitted; provided that the following conditions are met.

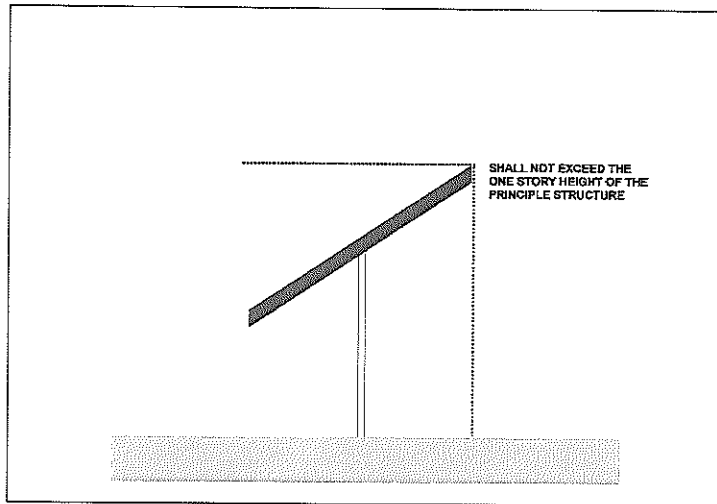
- a) Small Solar Energy Facilities shall primarily supply power to a principle on-site structure or use.
- b) Roof mounted facilities shall fit securely and shall not extend beyond the highest point of the roof area to which it is mounted. Facilities shall also not extend beyond the side or lower edge of a roof to which it is mounted.
- c) Facilities mounted on a sloped roof that faces the front yard of a lot shall be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 18 inches between the roof and highest edge or surface of the facility.



- d) The surface area for a ground mounted facility plus the surface area for the principal structure shall not exceed the maximum coverage requirements established for the underlying district.
- e) Ground mounted facilities, including all required support equipment, shall not be located in front yard areas



- f) Ground mounted facilities, including all required support equipment, shall not project into any minimum front, side or rear yard setbacks established for the underlying district.
- g) Ground mounted facilities, including all required support equipment, shall not exceed the one-story height of the principal structure. The highest point of the ground mounted system shall be measured as shown below.



- h) Ground mounted facilities, including all required support equipment, shall not exceed 10,000-sf.
  - i) All mechanical equipment serving Solar Facilities shall be screened from adjacent residentially zoned or used property. (see definition of "screening") As effected in appropriate zone. In Zoning Handbook Ordinance section 510 and 520 required buffers pg.103
  - j) All electrical cabling between the Solar Facilities and the primary structure shall be buried or concealed to the extent practical. Storage Clause – mitigation plan for Hazardous Waste
  - k) No Small Solar Energy Facilities shall violate any Performance Standards established in of this Ordinance.
  - l) There shall be siting considerations, including but not limited to, mitigation of environmental and wildlife habitat impacts; intended route for connecting to the utility network; alternative locations for supporting mechanical equipment, legal agreements between the solar facility operators and the property owner, and written confirmation that the public utility has been informed of the project's intent to connect to the utility system.
  - m) Curwensville Borough Council may attach additional conditions to the land development plan approval as deemed necessary and appropriate in its review.
1. A Zoning Compliance Certificate must be issued for the installation of any Small Solar Energy Facility.

## IV. WIND ENERGY FACILITIES

### A. PURPOSE

1. The purpose of this Section is to provide for the construction, operation and decommissioning of Wind Energy Facilities in Curwensville Borough, subject to reasonable conditions that will protect public health, safety and welfare.

### B. DEFINITIONS

1. "Applicant" is the person or entity filing an application under this Section.
2. "Facility Owner" means the entity or entities having an equity interest in the Wind Energy Facility, including their respective successors and assigns.
3. "Operator" means the entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.
4. "Hub Height" means the distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.
5. "Occupied Building" means a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
6. "Turbine Height" means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.
7. "Wind Turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.
8. "Wind Energy Facility" means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
9. "Non-Participating Landowner" means any landowner except those on whose property all or a portion of a Wind Energy Facility is located pursuant to an agreement with the Facility Owner or Operator.

### C. APPLICABILITY

1. This Section applies to all Wind Energy Facilities proposed to be constructed after the effective date of this Section, except that this Section is not intended to apply to stand-alone Wind Turbines constructed primarily for residential or farm use.

### D. PERMITTED USE:

1. Wind Energy Facility shall be considered a Conditional Use in the following Zones: R-C.

### E. PERMIT REQUIREMENT

1. No Wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall be constructed or located within Curwensville Borough, unless a Zoning

Permit has been issued to the Facility Owner or Operator approving construction of the facility under this Section.

2. Prior to issuance of a Zoning Permit the Applicant will ensure that all government permits required by State and Federal Law have been obtained,
3. Any physical modification to an existing and permitted Wind Energy Facility that materially alters the size, type and number of Wind Turbines or other equipment shall require a permit modification under this Section. Like-kind replacements shall not require a permit modification.

#### F. PERMIT APPLICATION

1. The permit application shall demonstrate that the proposed Wind Energy Facility will comply with this Section.
2. Among other things, the application shall contain the following:
  - a) A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Wind Energy Facility; the approximate number, representative types and height or range of heights of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
  - b) An affidavit or similar evidence of agreement between the property owner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the property owner to apply for necessary permits for construction and operation of the Wind Energy Facility.
  - c) Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located.
  - d) A site plan showing the planned location of each Wind Turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
  - e) Documents related to decommissioning including a schedule for decommissioning.
  - f) Other relevant studies, reports, certifications and approvals as may be reasonably requested by Curwensville Borough to ensure compliance with this Section.
3. Throughout the permit process, the Applicant shall promptly notify Curwensville Borough of any changes to the information contained in the permit application.
4. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.
5. The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the Curwensville Borough stormwater management regulations.

#### G. DESIGN AND INSTALLATION

1. *Design Safety Certification:* The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards

Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

2. *Uniform Construction Code:* To the extent applicable, the Wind Energy Facility shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and the regulations adopted by the Department of Labor and Industry.
3. *Controls and Brakes:* All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
4. *Electrical Components:* All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
5. *Visual Appearance; Power Lines:*
  - a) Wind Turbines shall be a non-obtrusive color such as white, off-white or gray.
  - b) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - c) Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, Facility Owner and Operator.
  - d) On-site transmission and power lines between Wind Turbines shall, to the maximum extent practicable, be placed underground.
6. *Warnings:*
  - a) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - b) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.
7. *Climb Prevention/Locks:*
  - a) Wind Turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - b) All access doors to Wind Turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

## H. SETBACKS

1. *Occupied Buildings:*
  - a) Wind Turbines shall be set back from the nearest Occupied Building a distance of not less than the maximum setback requirements for that zoning classification where the turbine is located \* or 1.5 times the Turbine Height, whichever is greater. These setback distances shall be measured from the center of the Wind Turbine base to the nearest point on the foundation of the Occupied Building.
  - b) Wind Turbines shall be set back from the nearest Occupied Building located on a Non-participating Landowner's property a distance of not less than five (5) times the Hub Height, as measured from the center of the Wind Turbine base to the nearest point on the foundation of the Occupied Building.

2. *Property lines*: All Wind Turbines shall be set back from the nearest property line a distance of not less than the maximum setback requirements for that zoning classification where the turbine is located or \* 1.5 times the Turbine Height, whichever is greater. The setback distance shall be measured to the center of the Wind Turbine base.
3. *Public Roads*: All Wind Turbines shall be set back from the nearest public road a distance of not less than 1.5 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.

#### I. USE OF PUBLIC ROADS

1. The Applicant shall identify all state and local public roads to be used within the Curwensville Borough to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
2. When required the Applicant will obtain from Curwensville Borough a Heavy Load Permit and/or the proper state government permit.

#### J. LOCAL EMERGENCY SERVICES

1. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer Fire Department(s).
2. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Facility.

#### K. NOISE AND SHADOW FLICKER

1. Audible sound from a Wind Energy Facility shall not exceed fifty (55) dBA, as measured at the exterior of any Occupied Building on a Non-participating Landowner's property. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
2. The Facility Owner and Operator shall make reasonable efforts to minimize shadow flicker to any Occupied Building on a Non-participating Landowner's property.

#### L. SIGNAL INTERFERENCE

The Applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Wind Energy Facility.

#### M. LIABILITY INSURANCE

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to Borough upon request.

#### N. DECOMMISSIONING

1. The Facility Owner and Operator shall, at its expense, complete decommissioning of the Wind Energy Facility, or individual Wind Turbines, within (12) twelve months after the end of the useful life of the Facility or individual Wind Turbines. The Wind Energy

- Facility or individual Wind Turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
2. Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
  3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
  4. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to Curwensville Borough after the first year of operation and every fifth year thereafter.
  5. The Facility Owner or Operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than twenty five percent (25%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the Facility Owner or Operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by Curwensville Borough.
  6. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to Curwensville Borough.
  7. If the Facility Owner or Operator fails to complete decommissioning within the period prescribed by Paragraph 17(A), then the landowner shall have six (6) months to complete decommissioning.
  8. If neither the Facility Owner or Operator, nor the landowner complete decommissioning within the periods prescribed by Paragraphs 17(A) and 17(G), then Curwensville Borough may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to Curwensville Borough shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that Curwensville Borough may take such action as necessary to implement the decommissioning plan.
  9. The escrow agent shall release the Decommissioning Funds when the Facility Owner or Operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

#### O. PUBLIC INQUIRIES AND COMPLAINTS

1. The Facility Owner and Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
2. The Facility Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints.

## V. GENERAL PROVISIONS

### A. REMEDIES

1. It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Section, or any permit issued under this Section, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Section or any permit issued under this Section.

2. If the Curwensville Borough determines that a violation of this Section or the permit has occurred, the Borough shall provide written notice to any person, firm, or corporation alleged to be in violation of this Section or permit. If the alleged violation does not pose an immediate threat to public health or safety, Curwensville Borough and all the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

3. If after thirty (30) days from the date of the notice of violation Curwensville Borough determines, in its discretion, that the parties have not resolved the alleged violation, Curwensville Borough may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Section or permit.

### B. MODIFICATIONS

1. The Borough may grant modification of the requirements of one or more provisions of this Ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the property in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the Ordinance is observed. All requests for a modification shall be in writing and shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.

### C. PROVISIONS

1. The provisions of this Ordinance shall be construed to the maximum extent possible to further the purposes and policies set forth herein, as consistent with applicable state statutes and regulations. If the provisions of this section and state law are in conflict, then state law shall prevail.

### D. ENFORCEMENT

1. Upon the receipt of a written complaint setting forth the existence of unauthorized construction, modification, or use in violation of this Ordinance, or other notice thereof, the Borough's Zoning Officer, Code Enforcement Officer, Solicitor or other representative that may be authorized by Borough Council (the "Enforcement Officer") shall cause written notice

to be given either by personal service or registered or certified mail to the Applicant of the Property upon which the violation exists, to immediately cease and the construction, modification or the unauthorized use of such system. Such as a written notice shall be required to enforce the remedies set forth in this section. However, the Borough shall still be entitled to give a verbal notice for defective systems as authorized above.

2. Upon failure of such Applicant to comply as directed in said notice, the Enforcement Officer, other municipal official(s) or solicitor may appear on behalf of the Municipality and initiate legal proceedings to enforce the provisions of this Ordinance before a District Magistrate.

3. Any Applicant who or which shall violate or permit to be violated the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding brought by Curwensville Borough before a District Magistrate, pay a fine of not less than five hundred (\$500.00) nor more than one thousand (\$1,000.00) dollars, plus all court cost, including reasonable attorneys fee's incurred by Curwensville Borough as a result thereof.

a. No fine shall commence or be imposed, levied, or be payable until the date of the determination of the violation be a District Magistrate. Each day that a violation exists and is continued shall constitute a separate offense, unless the District Magistrate who determines that a violation has occurred further shall determine that there was a good faith basis for the defendant to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination by such District Magistrate and thereafter every day shall constitute a separate offense.

4. In addition, the Borough shall also be entitled to recover from any Applicant all the Municipality's costs or fees (Collectively the "Cost") arising out of or related to the application or enforcement of this Ordinance. Such Costs may also include those to remedy violations of this Ordinance or to abate nuisances. The Costs shall include, but not be limited, engineer fees, geologist fees, attorney fees, zoning officer fees, and staff/employee time. The Cost may be collected as a Municipal Claim under applicable law against the property upon which the solar energy system, or portions thereof, is located.

#### E. Fees and Costs

1. The Applicant shall pay all permit application fees and inspection fees when seeking approval of a solar energy system or wind energy facility under this Ordinance, which fees shall be set by resolution, which may be amended by Borough Council from time to time.

2. The Applicant shall, prior to receipt of an approved permit, reimburse the Municipality for any actual fees or costs incurred arising out of or related to the Application (collectively the "Costs"). The Costs shall include, but not be limited to, engineering, zoning officer, building code official and legal fees.

#### F. INTENTION



1. It is the intention of the Curwensville Borough Council that the provisions of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining provisions of this Ordinance.

G. INCONSISTENCY

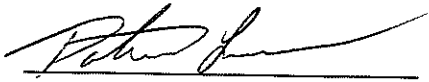
1. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

H. EFFECTIVE

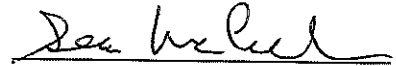
This Ordinance shall become effective immediately.

**DULY ADOPTED** this 25<sup>th</sup> day of November, 2024, by the Council of Curwensville Borough, as its lawful session regularly assembled.

**ATTEST:**



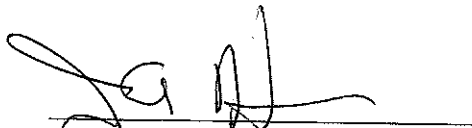
Patricia Lawson, Secretary



Council President

Borough of Curwensville

**MAYOR:**



Mayor

Borough of Curwensville