

KEATING TOWNSHIP

McKEAN COUNTY, PENNSYLVANIA

ORDINANCE NO.118

AN ORDINANCE ESTABLISHING UNIFIED REQUIREMENTS FOR UTILITY-SCALE ENERGY FACILITIES INCLUDING PROFESSIONAL REVIEW ESCROW, LITIGATION AND ENFORCEMENT ESCROW, DECOMMISSIONING FINANCIAL SECURITY, EMERGENCY RESPONSE PLANNING, INFRASTRUCTURE PROTECTION, AND PROJECT APPLICATION TRANSPARENCY; AND PROVIDING THAT SUCH REQUIREMENTS SHALL APPLY TO SOLAR ENERGY SYSTEMS, WIND ENERGY FACILITIES, BATTERY ENERGY STORAGE FACILITIES, AND ANY SIMILAR UTILITY-SCALE ENERGY PROJECTS REQUIRING TOWNSHIP PERMITS.

SECTION 1

Authority

This Ordinance is adopted pursuant to the authority granted to the Township under the Pennsylvania Second Class Township Code, 53 P.S. §65101 et seq., and other applicable laws of the Commonwealth of Pennsylvania.

SECTION 2

Purpose

The purpose of this Ordinance is to establish uniform requirements applicable to utility-scale energy facilities proposed within Keating Township in order to:

- ensure the cost of professional project review is borne by the applicant and not Township taxpayers
- provide consistent emergency planning and public safety coordination
- ensure adequate financial security for decommissioning of large-scale energy facilities
- protect Township roads and infrastructure from construction damage
- provide clear and consistent standards applicable to all energy generation or storage projects.

These requirements are intended to supplement the Township's technology-specific ordinances governing wind energy facilities, solar energy systems, battery energy storage facilities, and similar developments.

SECTION 3

Applicability

The provisions of this Ordinance shall apply to any of the following projects requiring Township permits:

- Solar Energy Systems
- Wind Energy Facilities
- Battery Energy Storage Facilities
- Any other utility-scale energy generation or storage facility as determined by the Township.

All applications for such facilities shall comply with this Ordinance in addition to the requirements contained within the applicable technology-specific Township ordinance.

For purposes of this Ordinance, the term “utility-scale energy generation or storage facility” shall include any project meeting one or more of the following objective thresholds:

- nameplate capacity of five (5) megawatts or greater
- disturbance of ten (10) acres or greater
- interconnection to transmission-level infrastructure

SECTION 4

Definitions

For purposes of this Ordinance, the following terms shall have the meanings set forth below:

- Application: a written submission seeking Township approval, permit, or other authorization for a project subject to this Ordinance.
- Complete Application: an application containing all materials required by this Ordinance and any applicable technology-specific Township ordinance.
- Incomplete Application: an application determined by the Township to be missing required information or materials.
- Cessation of Operations: twelve (12) consecutive months of non-operation, excluding temporary shutdowns for maintenance, repair, replacement, force majeure, or other good cause shown.
- Corporate Guarantee: a guarantee offered in lieu of other financial security by a parent company or affiliated entity that demonstrates financial capacity acceptable to the Township.

- Decommissioning: the removal of turbines, solar panels, battery storage units, structures, foundations, electrical infrastructure, access roads unless the landowner requests otherwise, and restoration and stabilization of disturbed land.
 - Final Closure: completion of decommissioning to the satisfaction of the Township and release of all financial security.
 - Financial Security: a performance bond, surety bond, irrevocable letter of credit, or other security acceptable to the Township under this Ordinance.
 - Utility-Scale Energy Facility means any solar energy system, wind energy facility, battery energy storage facility, or other energy generation or storage project that has a nameplate capacity of five (5) megawatts (MW) or greater, disturbs more than twenty (20) acres of land, requires interconnection to the electric grid at 34.5 kV or higher voltage, or is otherwise determined by the Township to be utility-scale.
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SECTION 5

Professional Review Escrow

To reimburse the Township for professional services reasonably necessary to evaluate compliance of proposed projects with Township ordinances and applicable law, the applicant shall establish a professional review escrow account.

At the time of application submission, the applicant shall deposit an initial escrow in the amount of \$25,000 per fifty (50) megawatts of nameplate capacity, or fraction thereof, with the Township.

The Township may draw from this escrow for reasonable costs that are necessary and directly attributable to review of the project, including but not limited to:

- engineering review
- environmental review
- hydrologic or stormwater analysis
- acoustic review
- electrical system analysis
- fire safety analysis
- legal review related to ordinance compliance

If the escrow balance falls below twenty-five percent (25%) of the required initial deposit, the Township may require replenishment of the account to the required amount.

Upon written notice from the Township, the applicant shall replenish the escrow within fifteen (15) business days. Failure to timely replenish the escrow may result in tolling or suspension of permit review, and the application may be deemed incomplete until the required escrow is restored.

Escrow funds shall be held in a segregated, interest-bearing account. Interest earned shall accrue to the applicant less any actual bank fees or administrative charges associated with the account.

The Township shall provide itemized statements of escrow activity no less than quarterly and upon reasonable written request of the applicant.

The applicant may dispute any escrow charge in writing within fifteen (15) days of the statement or notice containing the disputed charge. The Township shall review the objection and provide a written response within thirty (30) days. Any remaining dispute may be appealed to the Board of Supervisors for final determination.

If professional review costs reasonably exceed the initial escrow amount, the Township may require additional deposits.

Any unused escrow funds, together with accrued interest less any actual bank fees or administrative charges, shall be returned to the applicant upon completion of the permit review process.

SECTION 6

Litigation and Enforcement Escrow

To reimburse the Township for legal costs associated with enforcement or defense of permits issued under Township ordinances, the applicant shall establish a litigation and enforcement escrow account.

Prior to issuance of any permit, the applicant shall deposit \$25,000 per fifty (50) megawatts of nameplate capacity, or fraction thereof, into a Township-controlled escrow account.

The Township may draw from this escrow for costs that are reasonable, necessary, and directly attributable to enforcement of or defense of Township actions related to the project, including:

- legal review associated with the permit application
- defense of permit conditions
- enforcement actions related to ordinance compliance

- injunctive relief or court proceedings
- recovery of costs associated with violations

This escrow shall not be used to defend the general validity of this Ordinance except to the extent such defense is directly related to a specific permitted project and the Township's action on that project.

Litigation and enforcement escrow funds shall be held in a segregated, interest-bearing account. Interest earned shall accrue to the applicant less any actual bank fees or administrative charges associated with the account.

The Township shall provide itemized statements of escrow activity no less than quarterly and upon reasonable written request of the applicant.

If the Township determines that the litigation and enforcement escrow should be replenished, the applicant shall replenish the account within fifteen (15) business days after written notice. Failure to timely replenish the escrow may constitute grounds for enforcement action, permit suspension to the extent authorized by law, or withholding of further Township approvals related to the project.

The applicant may dispute any escrow charge in writing within fifteen (15) days of the statement or notice containing the disputed charge. The Township shall review the objection and provide a written response within thirty (30) days. Any remaining dispute may be appealed to the Board of Supervisors for final determination.

If the applicant withdraws an application prior to permit issuance, the Township may retain escrow funds necessary to reimburse professional costs incurred during project review.

Unused funds, together with accrued interest less any actual bank fees or administrative charges, shall be returned to the facility owner upon completion of decommissioning and final closure of the facility.

SECTION 7

Decommissioning Financial Security

Prior to commencement of construction, the facility owner shall provide financial security in an amount equal to no less than 110% of the independently estimated cost of decommissioning.

The decommissioning estimate shall be prepared by a professional engineer licensed in the Commonwealth of Pennsylvania.

The estimate shall include the cost of:

- removal of turbines, solar panels, battery storage units, structures, and foundations
- removal of electrical infrastructure
- removal of access roads unless the landowner requests otherwise
- restoration and stabilization of disturbed land
- disposal or recycling of system components

The estimate shall not rely upon speculative salvage value to reduce the financial security requirement.

Financial security shall be reviewed and updated at least every five (5) years.

Acceptable forms of financial security include:

- performance bond
- surety bond
- irrevocable letter of credit
- corporate guarantee acceptable to the Township

Any corporate guarantee offered as financial security shall be subject to Township review and acceptance based upon the guarantor's demonstrated financial capacity, including such information as audited financial statements, evidence of sufficient net worth, and any other documentation reasonably requested by the Township. If the Township determines that a corporate guarantor no longer demonstrates adequate financial capacity, the Township may require replacement security in a form otherwise permitted by this Ordinance within a reasonable time stated in written notice.

For purposes of this Section, cessation of operations shall mean twelve (12) consecutive months of non-operation, excluding temporary shutdowns for maintenance, repair, replacement, force majeure, or other good cause shown.

Prior to drawing upon decommissioning financial security, the Township shall provide written notice to the facility owner describing the basis for the proposed draw and shall provide a reasonable opportunity to cure the default, unless emergency circumstances require more immediate action to protect public health, safety, or welfare.

If the facility owner fails to complete decommissioning following cessation of operations, the Township may draw upon the financial security and complete the work.

SECTION 8

Emergency Response Planning

Prior to operation of any utility-scale energy facility, the applicant shall submit an Emergency Response Plan to the Township.

The plan shall be provided to all local emergency services including volunteer or municipal fire departments.

The Emergency Response Plan shall include:

- site access locations
- emergency shutdown procedures
- identification of electrical hazards
- identification of battery hazards where applicable
- emergency contact information for facility operators
- coordination procedures with local emergency responders

Battery Energy Storage Facilities shall comply with NFPA 855 and other applicable fire safety standards.

The facility owner shall cooperate with local emergency services and participate in coordination meetings upon reasonable request.

Operation of the facility shall not commence until the Emergency Response Plan has been submitted to and accepted by the Township following consultation with local emergency responders.

The Emergency Response Plan shall be updated at least annually and whenever there is a material change to site conditions, equipment, hazards, access, ownership, operations, or emergency contact information.

SECTION 9

Road and Infrastructure Protection

All construction activities shall comply with Township road weight limits and road use ordinances.

The Township may require pre-construction and post-construction road inspections where heavy hauling is anticipated.

The Township may also require road-use agreements, baseline video documentation, written baseline condition surveys, and engineer certifications as reasonably necessary to

document pre-construction conditions, evaluate damage claims, and verify completion of repairs.

Release of any road-related financial security may be conditioned upon verification by the Township or Township engineer that required repairs have been satisfactorily completed.

SECTION 10

Administrative Procedures

For any escrow or cost reimbursement required by this Ordinance, the Township shall provide written notice of charges, maintain itemized records reasonably sufficient to identify the nature of the services performed, and provide an opportunity for the applicant to object as set forth in this Ordinance.

Unless otherwise expressly stated, any written notice required by this Ordinance may be provided by personal delivery, United States mail, recognized overnight delivery service, or electronic mail to the contact information supplied by the applicant.

Failure to comply with escrow, replenishment, financial security, or other administrative requirements of this Ordinance may result in tolling or suspension of application review, a determination that the application is incomplete, denial of the application, permit suspension, or other enforcement action to the extent authorized by law and any applicable Township ordinance.

SECTION 11

Project Application Transparency

Upon receipt of an application for a project subject to this Ordinance, the Township shall maintain a public record of the application timeline.

The record shall include:

- the date the application was submitted
- the date the Township determined the application to be complete or incomplete
- the date of any required Public Information Meeting
- the date of any public hearing required under applicable ordinances
- the date of the Township's final decision on the permit application

This information shall be available for public inspection at the Township office during normal business hours.

If the Township maintains a website, the Township may publish this information electronically.

SECTION 12

Relationship to Other Township Ordinances

The requirements of this Ordinance shall apply in addition to any applicable provisions contained within:

- the Wind Energy Facility Ordinance
- the Solar Energy System Ordinance
- the Battery Energy Storage Facility Ordinance
- the Public Awareness of Large-Scale Projects Ordinance
- any other applicable Township ordinances

No permit application for a utility-scale energy facility shall be considered complete unless the applicant has demonstrated compliance with this Ordinance.

The requirements of this Ordinance are intended to establish minimum standards and shall apply in addition to, and not in lieu of, other applicable Township ordinances unless expressly stated otherwise.

SECTION 13

Conflicts and Supersession

If any provision of this Ordinance conflicts with a provision of any other Township ordinance as applied to utility-scale energy facilities, the more stringent provision shall control.

This Ordinance shall supersede any other ordinance or part of any ordinance that is inconsistent herewith, but only to the extent of such inconsistency.

SECTION 14

Severability

If any provision of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION 15

Effective Date

This Ordinance shall take effect five (5) days after adoption.

ENACTED AND ORDAINED this 8th day of April, 2026 by the Board of Supervisors of Keating Township, McKean County, Pennsylvania.

KEATING TOWNSHIP BOARD OF SUPERVISORS

Chairman *David D. Hill*

Supervisor *John A. ...*

Supervisor *Ryan J. ...*

ATTEST:

Township Secretary *Taylor Rottbey*