

ORDINANCE No. 2024-1

ELDRED TOWNSHIP JEFFERSON COUNTY, PENNSYLVANIA

SOLAR AND WIND ORDINANCE

AN ORDINANCE OF THE TOWNSHIP OF ELDRED, COUNTY OF JEFFERSON, AND COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING STANDARDS AND OTHER REQUIREMENTS FOR SOLAR AND WIND ENERGY SYSTEMS AND IMPOSING PENALTIES FOR VIOLATIONS OF THE SAME

WHEREAS, the Township of Eldred, County of Jefferson, and Commonwealth of Pennsylvania (hereinafter the “Township”) 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 and wind energy systems; and

WHEREAS, the purpose of the Ordinance is to set forth requirements for solar and wind energy systems.

NOW THEREFORE, IT IS HERBY ENACTED AND ORDAINED, by the Board of Supervisors of Eldred Township, Jefferson County, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1: DEFINITIONS

FINANCIAL SECURITY – A form of security including a cash deposit, cashier’s check, surety bond, or irrevocable letter of credit from a federal or Commonwealth chartered lending institution, or other surety acceptable to the Eldred Township Solicitor in the amount of 100% of the total estimated net decommissioning costs and in a form satisfactory to Eldred Township and the Township Solicitor.

PRINCIPAL SOLAR ENERGY SYSTEMS (PSES) – A solar energy facility consisting of one (1) or more free-standing ground or roof mounted solar collector device, solar related equipment and other associated structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures, primarily intended to supply electrical or thermal power for off-site use.

SCREEN – A structure providing enclosure and a visual barrier between the area enclosed and the adjacent property. A screen may also be nonstructured, consisting of trees, shrubs or other planted vegetation of a height sufficient to provide a visual barrier between the area enclosed and adjacent property.

SMALL SOLAR ENERGY FACILITY – A solar energy facility consisting of one (1) or more free-standing ground or roof mounted solar collector device, solar related equipment that is intended to be used to produce electrical or thermal power for on-site use. The sale and distribution of excess available energy shall be incidental and not the primary purpose of the facility.

SOLAR ENERGY FACILITY – An area of land used for a solar collections system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power for off-site and/or on-site use.

SOLAR ARRAY – A system of a group of solar panels connected together.

SOLAR EASEMENT – A solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner to assure adequate access to direct sunlight for solar energy facilities.

SOLAR ENERGY – Radiant energy (direct, diffuse, and reflective) received from the sun.

SOLAR ENERGY PROJECT – A group of two or more Solar Energy Facilities that are held by the owner or leased to a common lessor and which are part of a single solar energy production development project.

SOLAR ENERGY PROJECT OWNER – The individual, group, or entity responsible for the permitting, construction, and operation of a Solar Energy Facility or Solar Energy Project (SEF Developer).

SOLAR FACILITY CONNECTION – The high-voltage electric conveyance lines that connect a Solar Energy Facility to the Solar Project Connection.

SOLAR PROJECT CONNECTION – The electric conveyance lines that connect a Solar Energy Facility to the high-voltage electric interconnection grid.

SOLAR PANEL – That part or portion of a solar energy facility containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating, and/or for electricity.

SOLAR RELATED EQUIPMENT – Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, and foundations, or other structures used for or intended to be used for collection of solar energy.

WIND ENERGY FACILITY – An electric generating facility consisting of one or more wind turbines and other associated structures and buildings, which are designed to supply electrical power primarily for off-site use.

SECTION 2: “WIND ENERGY FACILITIES”

1. Permit Required; Applications.

- A. No wind energy facility shall be located within Eldred Township unless a permit has been issued by the Township to the owner of property on which a wind energy facility is to be located and/or the owner or operator of the proposed wind energy facility, approving the construction of a wind energy facility under this Ordinance.
- B. The permit application shall be accompanied by a fee in the amount of \$50.00, or as otherwise established from time to time by resolution of the Board of Supervisors.
- C. The permit application shall demonstrate that the proposed wind energy facility will comply with this Ordinance and include the following:
 - i. If the wind energy facility will not be owned and/or operated by the owner of the property on which it will be located, a notarized affidavit signed by the property owner, attesting that the wind energy facility owner and/or operator has a lease or other agreement to locate a wind energy facility on the property and that the property owner gives permission to the Township, its employees, contractors and/or agents to enter upon such property and take that action required in order to decommission the wind energy facility, including any associated equipment and/or structures as provided for in Section 2.2(O) below;
 - ii. Drawings showing the location of the wind energy facility on the property, including its distance from all occupied buildings located within 1.5 times the turbine height, property lines, and adjacent state and/or municipal road right-of-ways;
 - iii. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations, confirming that the design of the wind energy facility will conform to applicable industry standards, including those of the American National Standards Institute;
 - iv. Technical support documentation indicating that the noise standard contained in this Ordinance will be achieved; and

- v. Financial security in an amount equal to 100% of the estimated net decommissioning costs, as determined by an independent Professional Engineer registered in the Commonwealth of Pennsylvania and retained by the property owner or wind energy facility owner or operator, in order to guarantee the proper completion of decommissioning. Net decommissioning costs shall be the total cost of decommissioning net salvage value of the equipment.
 - D. Any denial of a permit shall be made in writing to the applicant, shall state the reasons therefor, and shall notify the applicant of the opportunity to appeal the denial.
 - E. Denials may be appealed by filing a written request for appeal with the Township Secretary, within 30 days of the date of the denial letter appealed from. Denials shall be accompanied by a nonrefundable appeal fee in the amount of \$100, or other such amount as may be set from time to time by resolution of the Board of Supervisors. In addition to the appeal fee, the appellant shall pay for the cost of a court reporter and any advertising needed. Upon receipt of a timely request for appeal, the Board of Supervisors shall hold a Local Agency Law hearing.
- 2. Wind energy facilities shall comply with the following requirements, in order to minimize the impacts of such facilities on the Eldred Township's physical and social environments and adjoining landowners and the community.
 - A. The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute.
 - B. To the extent applicable, the wind energy facility shall comply with the Pennsylvania Uniform Construction Code.
 - C. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over-speed 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.
 - D. Wind turbines shall be a non-obtrusive color such as white, off-white, or gray.
 - E. 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.
 - F. No portion of a wind turbine shall contain or be used to display advertising.

- G. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- H. Wind turbines shall not be located within a distance less than 1.5 times the turbine height from any occupied building, property line, or right-of-way of any adjacent state or municipal road. Said distance shall be measured from the center of the wind turbine base to the nearest point of the foundation of the occupied building, the closest property line, or road right-of-way.
- I. Noise from a wind turbine shall not exceed 60 dBA measured at the nearest property line.
- J. Wind energy facilities shall provide reasonable measures to minimize shadow flicker on any occupied building.
- K. Wind energy facilities shall provide reasonable measures to avoid disruption or loss of radio, telephone, television, or similar signals, and shall mitigate any harm caused by the wind energy facility.
- L. The owner of property on which a wind energy facility is located and/or the owner or operator of the wind energy facility shall notify the Township immediately upon cessation or abandonment of the operation and, at its sole cost and expense, complete the decommissioning of the facility within 12 months after cessation or abandonment of the operation, or the end of the useful life of the facility. The facility will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of 12 months.
- M. Decommissioning shall include the removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities. Disturbed earth shall be graded and re-seeded.
- N. An independent Professional Engineer, registered in the Commonwealth of Pennsylvania, shall be retained by the owner of property on which a wind energy facility is located and/or the owner or operator of the wind energy facility to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs") and the net decommissioning costs. Said estimates shall be submitted to Eldred Township with the permit application required in Section 2.1 above.
- O. If the wind energy facility is not completely decommissioned by the owner of the property on which a wind energy facility is located and/or the owner or operator of the wind energy facility within the prescribed period:

- i. The Township shall give written notice to the person issued the permit provided for in Section 2.1(A) above, the owner of the property on which the wind energy facility is located, the surety on any bond, and/or the issuer of any letter of credit that more than 12 months have expired since the end of the useful life of the facility, and under the Ordinance, the property owner, wind energy facility owner and/or wind energy facility operator is required to complete the decommissioning of the wind energy facility. The notice shall state the reasons upon which the Township determined the facility is at the end of its useful life, the amount of time the property owner, wind energy facility owner and/or wind energy facility operator has to complete the decommissioning, and that the Township will use the financial security to have the decommissioning completed if the property owner, wind facility owner and/or wind facility operator has not done so within the time specified in the notice.
- ii. In the event that the property owner, wind energy facility owner and/or wind energy facility operator has not completed the decommissioning within the time specified in the notice required under Section 2.2(O)(i), the surety on the bond or issuer of the letter of credit, if applicable, shall be required to either cause the required decommissioning to be completed or, in the alternative, pay over to the Township a sum equal to 100% of the estimated net decommissioning cost. Upon receipt of such funds, the Township shall then proceed to have the decommissioning completed; however, no liability shall be incurred by the Township as a result of any action taken by it, other than its responsibility to see to the proper expenditure of any funds so received by it. Should a cash deposit or cashier's check have been posted as the required financial security, the Township shall have the right to use such amounts as provided for in this subsection.

SECTION 3: "SOLAR ENERGY FACILITIES"

1. Permit Required; Applications.

- a. No solar energy facility shall be located within Eldred Township unless a permit has been issued by the Township to the owner of property on which a solar energy facility is to be located and/or the owner or operator of the proposed solar energy facility, approving the construction of a solar energy facility under this Ordinance.
- b. The permit application shall be accompanied by a fee in the amount of \$50.00, or as otherwise established from time to time by resolution of the Board of Supervisors.
- c. The permit application shall demonstrate that the proposed solar energy facility will comply with this Ordinance and include the following:

- i. If the solar energy facility will not be owned and/or operated by the owner of the property on which it will be located, a notarized affidavit signed by the property owner, attesting that the solar energy facility owner and/or operator has a lease or other agreement to locate a solar energy facility on the property and that the property owner gives permission to the Township, its employees, contractors and/or agents to enter upon such property and take that action required in order to decommission the solar energy facility, including any associated equipment and/or structures as provided for in Section 2.2(O) below;
 - ii. Drawings showing the location of the solar energy facility on the property, including its distance from all property lines and the proposed height of any ground mounted facilities, including required support equipment;
 - iii. Manufacturer specifications for the key components of the solar energy facility;
 - iv. Technical support documentation indicating that the noise standard contained in this Ordinance will be achieved; and
 - v. Financial security in an amount equal to 100% of the estimated net decommissioning costs, as determined by an independent Professional Engineer registered in the Commonwealth of Pennsylvania and retained by the property owner or solar energy facility owner or operator, in order to guarantee the proper completion of decommissioning. Net decommissioning costs shall be the total cost of decommissioning net salvage value of the equipment.
- d. Any denial of a permit shall be made in writing to the applicant, shall state the reasons therefor, and shall notify the applicant of the opportunity to appeal the denial.
- e. Denials may be appealed by filing a written request for appeal with the Township Secretary, within 30 days of the date of the denial letter appealed from. Denials shall be accompanied by a nonrefundable appeal fee in the amount of \$100, or other such amount as may be set from time to time by resolution of the Board of Supervisors. In addition to the appeal fee, the appellant shall pay for the cost of a court reporter and any advertising needed. Upon receipt of a timely request for appeal, the Board of Supervisors shall hold a Local Agency Law hearing.
2. Small solar energy facilities shall comply with the following requirements, in order to minimize the impacts of such facilities on Eldred Township's physical and social environments and adjoining landowners and the community.

- A. Small Solar Energy Facilities shall primarily supply power to an on-site structure or use.
 - B. The Small Solar Facility shall comply with the Pennsylvania Uniform Construction Code.
 - C. Roof-mounted facilities shall fit securely and shall not extend beyond the limits of the existing roof area to which it is mounted.
 - D. Ground-mounted facilities, including all required support equipment, shall not be located in that portion of the yard existing in front of the primary structure on the property and parallel to the street right of way line at all points.
 - E. Ground-mounted facilities, including all required support equipment, shall not project into any portion of the yard existing in front of the primary structure on the property and parallel to the street right of way line at all points, and must be at a minimum of 20 feet from all lot lines.
 - F. Ground-mounted facilities, including all required support equipment, shall not exceed the height of the first story of the primary structure on the property.
 - G. Ground-mounted facilities, including all required support equipment, shall not exceed 10,000 sf.
 - H. All mechanical equipment serving Solar Facilities shall be screened from adjacent property.
 - I. All electrical cabling between the Solar Facilities and the primary structure shall be buried or concealed.
3. Principal solar energy systems (PSES) shall comply with the following requirements to minimize impacts on Eldred Township's physical and social environments and adjoining landowners and the community.
- A. The PSES layout, design, and installation shall conform to applicable industry standards, such as those of the American National Standards (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 with all other applicable fire and life safety requirements.
 - B. No PSES shall be located on a lot smaller than ten (10) acres in size.

- C. The Principal Solar Energy System shall comply with the Pennsylvania Uniform Construction Code.
- D. No PSES shall be located within a distance of one hundred (100) feet from any property line.
- E. Ground-mounted PSES shall not exceed fourteen (14) feet in height.
- F. All on-site transmission and plumbing lines shall be placed minimally under solar panels and to the extent feasible underground.
- G. Appropriate safety/warning signage concerning voltage shall be placed on ground-mounted electrical devices, equipment, and structures.
- H. No portion of the PSES shall contain or be used to display advertising.
- I. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
- J. Noise from a PSES shall not exceed 60 dBA at the nearest property line.
- K. PSES shall be completely enclosed by a minimum eight (8) foot high-security fence.
- L. 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 or roadway.
- M. PSES shall meet all other applicable Township, County, State, and Federal regulations.
- N. 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.
- O. PSES site shall have the grass area maintained three times a year. Once in the Spring, Summer, and Fall months.
- P. All electrical cabling between the Solar Facilities and the utility system connection shall be buried or concealed.
- Q. The owner of property on which a solar energy facility is located and/or the owner or operator of the solar energy facility shall notify the Township immediately upon

cessation or abandonment of the operation and, at its sole cost and expense, complete the decommissioning of the facility within 12 months after cessation or abandonment of the operation, or the end of the useful life of the facility. The facility will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of 12 months.

- R. Decommissioning shall include the removal of solar panels or collectors, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities. Disturbed earth shall be graded and re-seeded.
- S. An independent Professional Engineer, registered in the Commonwealth of Pennsylvania, shall be retained by the owner of the property on which a solar energy facility is located and/or the owner or operator of the solar energy facility to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs") and the net decommissioning costs. Said estimates shall be submitted to Eldred Township with the permit application required in Section 3.1 above.
- T. If the solar energy facility is not completely decommissioned by the owner of the property on which a solar energy facility is located and/or the owner or operator of the solar energy facility within the prescribed period:
 - i. The Township shall give written notice to the person issued the permit provided for in Section 3.1(A) above, the owner of the property on which the solar energy facility is located, the surety on any bond, and/or the issuer of any letter of credit that more than 12 months have expired since the end of the useful life of the facility, and under the Ordinance, the property owner, solar energy facility owner and/or solar energy facility operator is required to complete the decommissioning of the solar energy facility. The notice shall state the reasons upon which the Township determined the facility is at the end of its useful life, the amount of time the property owner, solar energy facility owner and/or solar energy facility operator has to complete the decommissioning, and that the Township will use the financial security to have the decommissioning completed if the property owner, solar facility owner and/or solar facility operator has not done so within the time specified in the notice.
 - ii. In the event that the property owner, solar energy facility owner and/or solar energy facility operator has not completed the decommissioning within the time specified in the notice required under Section 3.3(T)(i), the surety on the bond or issuer of the letter of credit, if applicable, shall be required to either cause the required decommissioning to be completed or, in the alternative, pay over to the Township a sum equal to 100% of the estimated net decommissioning cost. Upon receipt of such funds, the Township shall then proceed to have the decommissioning completed; however, no liability shall be incurred by the

Township as a result of any action taken by it, other than its responsibility to see to the proper expenditure of any funds so received by it. Should a cash deposit or cashier's check have been posted as the required financial security, the Township shall have the right to use such amounts as provided for in this subsection.

SECTION 4: REMEDIES

- A. It shall be unlawful for any person to violate or fail to comply with or take any action which is contrary to the terms of this Ordinance, or any permit issued hereunder or cause another to violate or fail to comply or to take any action that is contrary to the terms of this Ordinance or any permit issued hereunder.
- B. If the Township determines that a violation of this Ordinance or any permit issued hereunder has occurred, the Township shall serve a written notice of violation(s) upon the offending person(s).
- C. If the aforementioned notice of violation(s) is not resolved by the offending person(s) within the time period specified by the Township therein, the Township may initiate civil enforcement proceeding or any other remedy at law in equity, including without limitation injunctive relief, to ensure compliance with this Ordinance or any permit issued hereunder.

SECTION 5: ENFORCEMENT AND PENALTIES

- A. Any person authorized by the Township Board of Supervisors may enforce the provisions of this Ordinance or any permit issued hereunder.
- B. Any violation of this Ordinance shall constitute a summary offense punishable, upon conviction thereof by a magisterial district justice, by a fine not to exceed one thousand dollars (\$1,000.00) plus costs of prosecution or, in default of payment of such fines and costs, by a term of imprisonment not to exceed thirty (30) days. Each day of violation shall constitute a separate and distinct offense.


SECTION 6: Severability. The provisions of this Ordinance are declared to be severable, and if any section subsection, sentence, clause, or part thereof is, for any reason, held to be invalid to unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or part of this ordinance.

SECTION 7: Effective Date. This Ordinance shall take effect in accordance with law. This Ordinance shall take effect five (5) days after enactment.

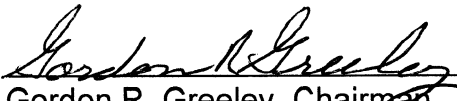
Duly presented, ordained, and enacted at a regular meeting of the Eldred Township Board of Supervisors on the 10th day of June, 2024

ATTEST:

Township of Eldred, County of Jefferson,
Commonwealth of Pennsylvania

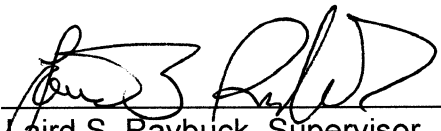


Lisa Kelso
Secretary/Treasurer

By: 

Gordon R. Greeley, Chairman

By: _____
John T. MacBeth, Vice-Chairman

By: 

Laird S. Raybuck, Supervisor