

**BRADFORD COUNTY SUBDIVISION AND
LAND DEVELOPMENT ORDINANCE
AMENDMENT NO. 2023-XX
SOLAR ENERGY FACILITIES**

Purpose: The purpose of this amendment is to provide for the development, construction, operation and decommissioning of Utility Scale Solar Energy Facilities in the County, subject to reasonable conditions that will protect the public health, safety and welfare.

Applicability: This Amendment applies to all land development plans which provide for Solar Energy Facilities which are filed after the effective date of the Ordinance Amendment, except that the requirements herein are not intended to apply to Solar Energy Facilities constructed to use the majority of power generated on-site for residential, business or agricultural purposes. Solar Energy Facilities constructed prior to the effective date of this Ordinance Amendment shall not be required to meet the requirements of this Amendment; provided that any physical modification to an existing Solar Energy Facility that materially alters the size, type and number of Solar Collection Systems or other equipment shall comply with the provisions of this Ordinance Amendment.

Article 2 Section 201 – Definitions Adds:

COLLECTOR HEIGHT - the distance measured from the surface of the foundation to the highest point of the Collector face.

FACILITY OWNER - the entity or entities having an equity interest in the Solar Energy facility, including their respective successors and assign

LANDOWNER – The individual taxpayer that the deeded property belongs to.

NON-PARTICIPATING LANDOWNER - any landowner except those on whose property all or a portion of a Solar Energy Facility is located pursuant to an agreement with the Facility Owner or Operator.

OCCUPIED BUILDING – a primary residence, school, hospital, church, public library, business or other building used for public gathering that is regularly in use when the land development application is submitted.

OPERATOR - the entity responsible for the day-to-day operation and maintenance of the Solar Energy Facility.

PRIVACY FENCING – a fence designed and meant to inhibit the public view and provide seclusion.

SOLAR COLLECTION SYSTEM - a panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

SOLAR ENERGY FACILITY - an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Solar Collection Systems and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Article 3 Section 308 – Land Development Plans Adds:

Solar Energy Facility Site Development Criteria

All Solar Energy Facility Proposals shall conform to the requirements set forth under Pre-Application, Preliminary Plan and Final Plan submissions in addition to the criteria outlined below and all other applicable sections contained within the Bradford County Subdivision and Land Development Ordinance.

8. Solar Energy Facility Development Plan Data and Related Items:

- A. Plan Requirements – Land Development Plans shall contain the following, in addition to other applicable provisions of these regulations.
 - a. A narrative describing the proposed Solar Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Solar Energy Facility; the approximate number, representative types and height of Solar Panels to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
 - b. A copy of the lease document, less financial compensation terms, that shows the developer has entered into an agreement for site control and that defines the assignment of the proposed assets to be placed on the property.
 - c. An affidavit or power of attorney (POA) 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 Solar Energy Facility.
 - d. A copy of any permits, licenses or approvals from any governing body or regulatory agency having jurisdiction applicable to the intended use of the facility.
 - e. Identification of the properties on which the proposed Solar Energy Facility will be located, and the properties adjacent to where the Solar Energy Facility will be located.
 - f. A site plan showing the planned location of each Solar Panel, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Solar Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
 - g. Copy of a system impact study or similar document showing proof of interconnect queue position with PJM to allow connection to the electrical grid.
 - h. Proof of written municipal notification of the Proposed Project to the municipalities in

which the Proposed Project is located.

- i. A decommissioning plan, including a schedule for decommissioning work and proof of financial security.
- j. Other relevant studies, reports, certification and approvals as may be reasonably requested by the Planning Commission to ensure compliance with this Chapter.

B. Design and Installation

- a. Uniform Construction Code – To the extent applicable, the Solar 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.
- b. Design Safety Certification – The design of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, or other similar certifying organizations.
- c. Electrical Components – All electrical components of the Solar Energy Facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
- d. Visual Appearance & Power Lines
 - i. Solar Energy Facilities shall not be artificially lighted, except to the extent required for over-all safety.
 - ii. Solar Panels shall not display advertising, except for reasonable identification of the Panel manufacturer, Facility Owner and Operator.
 - iii. On-site transmission and power lines between Solar Panels shall, to the maximum extent practicable, be placed underground.
 - iv. The developer will to every extent possible seek to limit harmful glare to surrounding properties and roadways.
 - v. Where existing screening in the form of natural vegetation or topography does not exist, screening shall be provided along the perimeter of the development that abuts any Occupied Buildings of Non-Participating Landowners or public roads in the form of privacy fencing or a mix plants species, including native or otherwise approved species and evergreens, or some combination thereof.
 - vi. Additional vegetative screening may be required at the discretion of the Planning Commission.
- e. Prevention of Unauthorized Entry
 - i. Fencing of not less than 8 feet in height will be provided around the perimeter

of the Solar Energy Facility Development in compliance with the National Electrical Code (NEC). A locking gate will be provided at each access road to prevent entry by non-authorized persons and shall make provisions for Knox box type of entry if requested by emergency services. All access to substation or high voltage electrical equipment shall be locked or fenced, as required by any applicable safety standard.

f. Warnings

- i. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- ii. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires for any gantries or transmission line poles and along the guy wires up to a height of ten (10) feet from the ground.

C. Setbacks

a. Occupied Buildings

- i. Solar Panels shall be set back from the nearest Occupied Building that is a non-residential use at a distance not less than the greater of the maximum setback requirements of any applicable locally enacted zoning classification where the Panel is located or 300' (feet) from the nearest occupied structure, whichever is greater. The setback distance shall be measured from the outer edge of the Solar Panel nearest to the Occupied Building to the nearest point on the foundation of the Occupied Building.
- ii. Solar Panels shall be set back from the nearest Occupied Building that is a residential use located on a Non-participating Landowner's property a distance of not less than 300' (feet), measured from the outer edge of the Solar Panel nearest to the Occupied Building to the nearest point on the foundation of the Occupied Building.

b. Property Lines and Roadways

- i. All Solar Collection Panels and support buildings shall be set back from the nearest property line a distance of not less than the greater of the maximum setback requirements of any applicable locally enacted zoning classification where the equipment is located or 40' (feet), whichever is greater. The setback distance shall be measured from the outer edge of the Solar Panel nearest to the property line. The foregoing setbacks shall not apply to property lines internal to the Solar Energy Facility.
- ii. All Solar Collection Systems shall be set back from the nearest public road a distance of not less than 40' (feet), as measured from the right-of-way line of the nearest public road to the outer edge of the Solar Panel nearest to the right-of-way line. Access to the Solar Energy Facility shall be provided from a public street and shall be adequately designed to allow access to the Solar Energy Facility by emergency services. All Access points shall be secured by a self-locking gate.

iii. All roadways and drive aisles interior to the development should be interconnected when practical and designed to include adequate space for the turning movements of emergency service vehicles. Where roads are not interconnected they shall be terminated with a cul-de-sac, hammerhead or other design that allows for the ingress and egress of emergency service vehicles.

c. Modification of Setback Requirements

i. Upon request, the Planning Commission may grant waivers or modifications of setback requirements hereunder where the developer has shown that literal enforcement will exact undue hardship because of unique physical conditions of the land in question and provided that such modification will not be contrary to the public interest.

ii. The Planning Commission may take into consideration the impact of the Solar Energy Facility on the surrounding neighborhood and also any measures proposed by developer to mitigate those impacts in granting modification of setback requirements hereunder.

d. Fences and landscaping may be constructed or installed within the setback area provided they do not create an unsafe sight distance along public roadways or interfere with clear sight triangles at intersecting roadways and/or driveways.

D. Use of Public Roads

a. The Applicant shall identify all state and local public roads to be used within the County to transport equipment and parts for construction, operation or maintenance of the Solar Energy Facility.

b. The developer may be required to bond public roadways with PennDOT or the local jurisdiction(s) in accordance with state and local regulations. In that case, copies of executed bond agreements will be provided to the Planning Commission prior to the commencement of construction. Further, if roadways are bonded with local or state agencies the rest of section (D.) *Use of Public Roads* does not apply.

c. The Planning Commission's engineer or a qualified third-party engineer hired by the Planning Commission and paid for by the Applicant shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

d. Any road damage caused by the applicant or its contractors shall be promptly repaired or as soon as practical at the Applicant's expense to a minimum quality of travel at the initial road condition using materials that meet or exceed the specification of the publicly owned roadway.

e. The Applicant shall demonstrate that it has an executed Maintenance Agreement with the roadway owner to ensure the prompt repair of damaged roads.

E. Local Emergency Services Emergency Planning

- a. The Applicant shall provide a copy of the project summary and site emergency response plan to the local emergency services, including paid or volunteer Fire Departments, Emergency Medical Services, County Emergency Management Agency and 911 Communications for the associated PSAP within 30 days of the start of operations.
- b. The applicant shall procure a valid 911 Physical Address for the site from the Braford County 911 Communications Center – GIS Division and said address shall be posted clearly at the entrance to the facility along with an emergency contact number and site name.

F. Nuisance Issues

- a. Factors such as noise, odor, and surrounding land uses shall be regulated by local zoning controls or other applicable ordinances, if regulations exist within the respective municipality.

G. Signal Interference

- a. 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 Solar Energy Facility.

H. Liability Insurance

- a. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$5 million per occurrence and \$10 million in the aggregate. Coverage may be shown by primary and umbrella policies or a corporate group policy, as applicable. Certificates shall be made available to the County upon request.

I. Decommissioning

- a. The Facility Owner and Operator shall, at its expense, complete decommissioning of the Solar Energy Facility, or individual Solar Collection Systems, within twelve (12) months after the end of the useful life of the Facility or individual solar Collection Systems. The Solar Energy Facility or individual Solar Collection Systems will presume to be at the end of its useful life if no electricity is generated for commercial production and distribution for a continuous period of twelve (12) months.
- b. Decommissioning shall include removal of Solar Collection Systems, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
 - i. To the extent possible the materials shall be re-sold or salvaged. Materials that cannot be re-sold or salvaged shall be disposed of at a facility authorized to dispose of such materials as required by federal or state law.
- c. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads, storm water facilities or other land surface areas not be restored.

- i. If the landowner(s) waives the reclamation clause, they must also agree to assume responsibility for all permitted facilities with the appropriate regulatory agency. Copies of approved permit transfers must be provided to the Planning Commission.

- d. An independent and certified Professional Engineer shall be retained by the Facility Owner or Operator, at their cost, to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment (“Gross Decommissioning Costs”), and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). The solar project Owner shall provide financial security of 110% of the estimated cost of decommissioning. The estimate may include an estimated salvage and re-sale value, discounted by a factor of 10%.
The decommissioning cost estimate formula shall be:
Gross Cost of Decommissioning Activities
- 90% credit of salvage and re-sale value
= the Decommissioning Cost Estimate.

Said estimates shall be submitted to the Planning Commission after first year of operation and every fifth year thereafter.

- e. Decommissioning Funds may be in the form of a performance bond, surety bond, or other form of financial assurance that are in an acceptable form to the Planning Commission. These funds must be posted to the County before construction begins on the proposed project.

- f. If the Facility Owner or Operator fails to complete decommissioning within the period prescribed by Subsection I. – Decommissioning (a), the landowner shall have six (6) months to complete decommissioning. The County may draw on the financial security to reimburse the landowner for decommissioning costs upon the request of the landowner and submission of proof of costs in a form satisfactory to the County and Planning Commission.

- g. If neither the Facility Owner or Operator, nor the landowner complete decommissioning within the periods prescribed by Subsection I. – Decommissioning, (a), the County may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the County shall constitute agreement and consent of the parties to the agreement, the irrelative heirs, successors and assigns that the County may take such action as necessary to implement the decommissioning plan.

- h. The County shall release the Decommissioning Funds when the Facility Owner or Operator has demonstrated and the Planning Commission concurs that decommissioning has been satisfactorily completed, or upon written approval of the County in order to implement the decommissioning plan.

- i. In the event of sale or transfer of the Solar Facility, the acquiring agency shall adhere to the original monetary and operational decommissioning requirements set forth for the original developer.

J. Public Inquiries and Complaints

- a. 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.
- b. The Facility Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints.

K. Repealer

- a. All ordinances, or parts of ordinances, which are inconsistent with this Ordinance are repealed to the extent necessary to give effect to the provisions of this Ordinance.
- b. If any sentence, clause, part, or section of this Ordinance is found to be unconstitutional, illegal, invalid, or contrary to any provisions of Federal or State law, that sentence, clause, part, or section shall not affect the validity of the remaining provisions of this Ordinance. It is hereby declared the intent of the governing body to have enacted this Ordinance as if such unconstitutional, illegal, or invalid sentence, clause, part, or section had not been included therein.