

ORDINANCE NO. 707
CONEMAUGH TOWNSHIP, SOMERSET COUNTY

AN ORDINANCE OF THE TOWNSHIP OF CONEMAUGH, AMENDING THE TOWNSHIP ZONING ORDINANCE NO. 678, AS AMENDED, TO ADD REGULATIONS FOR THE CONSTRUCTION AND USE OF SOLAR ELECTRIC FACILITIES

WHEREAS, the Township of Conemaugh has established comprehensive zoning throughout the Township; and

WHEREAS, the Planning Commission has been established to review and recommend zoning and permit actions; and

WHEREAS, certain land in Conemaugh Township has been examined by the Planning Commission and recommended for change on the basis that current zoning rules may unnecessarily restrict landowners without providing a substantial benefit to the purposes expressed in the Zoning Ordinance, and

WHEREAS, it is hereby expressly declared that it is not the purpose or intention of the Board of Supervisors of this Township or the Township, itself, to discriminate against or in any way to impose undue hardship upon any individual, company, firm, association, corporation, or other business entity in passing such an Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED this ____ day of _____, 2023, that following a Public Meeting before the Planning Commission held the ____ day of _____, 2023, the recommendation of the Conemaugh Township Planning Commission, comment by the Somerset County Planning Commission, and a Public Hearing before the Conemaugh Township Supervisors, that the following changes are made to the Conemaugh Township Zoning Ordinance No. 678, as amended by Ordinance Nos. 686 and 693:

Section 1) Changes to Article IV, USE REGULATIONS: SECTION(S)

SECTION 407 – CT – Travelers-Commercial District, Part 407.02. Uses permitted by special exception.

**Renumber subpart “b”, as subpart “a”, and add new subpart b.
b. Solar Energy Systems, as further regulated under Section 610.**

SECTION 408 – IL-Light Industrial District, Part 408.02. Uses permitted by special exception.

**Add new subpart “b”.
b. Solar Energy Systems, as further regulated under Section 610.**

SECTION 409 – IH-Heavy Industrial District, Part 409.02. Uses permitted by special exception.

**Add / Use empty subpart “a”.
a. Solar Energy Systems, as further regulated under Section 610.**

SECTION 2, add new sections to Article VI – Supplementary Regulations.

Section 610 – REGULATING THE CONSTRUCTION, OPERATION, AND DECOMMISSIONING OF SOLAR ELECTRIC FACILITIES.

SECTION 610.01: TITLE AND PURPOSE

The purpose of this Section is to provide requirements for the construction, operation, and decommissioning of Solar Electric Facilities in the Township, subject to reasonable conditions that will protect the public health, safety, and welfare. The township hereby distinguishes between solar electric facilities which are accessory to another primary land use and because of meeting certain additional criteria are exempt from regulations contained in this section 610 and Solar Electric Facilities which are stand alone or do not otherwise qualify for an exemption.

SECTION 610.02: Solar Electric Facilities.

- A. Solar Electric Facilities which are accessory to another primary land use on a property are exempt from Section 610 regulations if;
 - a. All of the proposed facilities are located at least one thousand (1,000’) feet from any neighboring property line, or
 - b. All of the proposed facilities are located on the roof or walls of an existing primary use structure, or
 - c. All of the proposed facilities occupy a space of not more than one sixteenth of an acre (approximately 50 feet by 50 feet)

“Exempt” facilities under this section (610.02 (A)) must comply with the Uniform Construction Code, the National Electric Code and all other township ordinance requirements, including setbacks, lot coverage and other general requirements of the District in which they are located.

B. Solar Electric Facilities which do not qualify for exemption under Section 610.02 (A), shall be permitted as a special exception in the Light Industrial, heavy Industrial and Commercial Travelers zoning districts upon the applicant demonstrating compliance with requirements set forth in Section 610.03.

Section 610.03 Requirements for Special Exception for Solar Electric Facilities

- A. Fencing: Solar Electric Facilities shall provide secure fencing, at least six feet in height, surrounding all facilities with a locked gate. The operator shall maintain a placard on the gate indicating the name of the current Solar Electric Facility owner and a 24 hour, seven day a week emergency phone number.
- B. Access: At a minimum, Permittee shall demonstrate the presence of a twenty-five (25') foot right of way providing access to the fenced area, as well as a 12 foot paved cartway.
- C. Screening, Solar Electric facilities shall be screened by vegetation from any adjacent property that is utilized as a residence.
- D. Setbacks. The maximum lot coverage and minimum setbacks from front, side, and rear property lines shall be those which comply with the Conemaugh Township Zoning Ordinance, for the zoning district in which the Solar Electric Facility is to be located. The minimum setback for any ground-mounted Solar Electric Facility from any public highway or property line shall be fifty (50) feet as measured from the base thereof.
- E. Appropriate safety warning signage concerning electrical hazards shall be placed on all solar facilities.
- F. Solar Electric facilities shall not be located in any easement or right of way or within any waterway or storm water conveyance system.
- G. There shall be no artificial lighting other than manually switched off and on, or dusk to dawn security lights utilized at the solar electric facilities.
- H. Permit applications and site plan submissions shall document compliance Section 610.03 of this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the Solar Electric Facility is constructed.
- I. The applicant shall comply with County and/or Township subdivision and land development requirements.
- J. The applicant shall comply with all other applicable federal, state, and local laws, rules, codes and regulations, including but not limited to, requirements of the National Electric Code.

- K. The applicant shall demonstrate compliance with storm water management requirements. Total surface area of solar panels shall be considered impervious surface for storm water calculations.

Section 610.04 Decommissioning of Section 610.02 (B) Solar Facilities

Decommissioning. Unless satisfactory evidence is furnished to the Township that the Solar Electric Facility owner and/or operator has included in a lease agreement or other agreement with the landowner a provision for sufficient financial security to cover the costs of decommissioning all improvements or common amenities including, but not limited to, the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original, which provision is at least as stringent as the requirements set forth below, and unless satisfactory evidence has been furnished to the Township that such security has, in fact, been provided, the following requirements must be met:

- a. Before a permit may be approved and/or issued to a Solar Electric Facility owner and/or operator, the said owner and/or operator must submit to the Township financial security (which shall be in addition to any other financial security required pursuant to any applicable subdivision and land development ordinance) which shall be deposited with the Township in an amount sufficient to cover the costs of decommissioning all improvements or common amenities including, but not limited to the solar panels and any base and footing, storm water detention and/or retention basins and other related drainage facilities, and electrical apparatus and restoration of the land to its original condition including forestry plantings of the same type and density as the original.

- b. Such financial security shall be in the form of cash, an irrevocable letter of credit, or a bond, satisfactory in form to the Township Solicitor whose review of same shall be reimbursed to the Township by the owner and/or operator, and posted with a bonding company chosen by the party posting the financial security, provided that said bonding company is authorized to conduct such business with the Commonwealth of Pennsylvania.

- 1. Such bond shall provide for and secure to the Township the decommissioning of the improvements.

- ii. The amount of the bond to be posted for the decommissioning of any improvements shall be equal to one hundred ten (110%) percent of the estimated cost thereof less the amount of a bona fide quote for salvage value of the Solar Electric Facilities. The permittee shall adjust the required amount of the bond by submission of updated costs, every five (5) years. Subsequent to said adjustment, the Township may require the Solar Electric Facility owner and/or operator to post

additional security in the form of an increased bond in order to assure that the financial security equals said one hundred ten (110%) percent. Any additional security shall be posted by the Solar Electric Facility owner and/or operator in accordance with this subsection and any additional review of any future bond form by the Township's Solicitor shall be reimbursed by the Solar Electric Facility owner and/or operator to the Township.

iii. The amount of financial security required shall be based upon an estimate of the cost of decommissioning of any improvements, submitted by the Solar Electric Facility owner and/or operator and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost, less salvage value. The Township, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the Solar Electric Facility owner and/or operator and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Township and the Solar Electric Facility owner and/or operator. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the Solar Electric Facility owner and/or operator.

As the work of decommissioning of any improvements proceeds, the party posting the bond may request the governing body to release, or authorize the release, from time to time, such portions of the bond(s) necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Board of Supervisors and the Board of Supervisors shall request the municipal engineer to certify, in writing, to the Board of Supervisors that such portion of the decommissioning of any improvements has been completed. Upon such certification, the Board of Supervisors shall authorize release by the bonding company or bank of an amount as estimated by the municipal engineer fairly representing the value of the decommissioning of any improvements.

v. The owner of any participating property which is subject to decommissioning shall be given the option to keep the road(s) created on such owner's property by or in connection with construction of any Solar Electric Facility.

vi. When the Solar Electric Facility owner and/or operator has completed the decommissioning of all improvements, such owner and/or operator shall notify the Board of Supervisors, in writing, by certified or registered mail of the completion of the aforesaid decommissioning of all improvements and shall send a copy thereof to the municipal engineer. The Board of Supervisors shall direct and authorize the municipal engineer to inspect the site. The municipal engineer shall indicate to the Township approval or rejection of said decommissioning of all improvements, either in whole or in part, and if said improvements, or any portion thereof,

shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such non-approval or rejection.

vii. The Board of Supervisors shall notify the Solar Electric Facility Owner and/or Operator as to the municipal engineer's acceptance or rejection of the decommissioning. If the decommissioning is acceptable, the Township shall release the bond. If the decommissioning is not acceptable, the Solar Electric Facility owner and/or operator shall, within thirty (30) days of notice by the Township of the deficiencies, correct the same and in the event the said deficiencies are not so corrected within the said time period, the Township may utilize the bond to accomplish the same as set forth herein.

viii. All disposal of Solar Electric Facility components shall be in accordance with all applicable federal, state, and local laws, rules, and regulations.

c. In the event that any required decommissioning of improvements has not been completed as provided in this Ordinance, the Board of Supervisors of the Township is hereby granted the power to enforce any corporate bond or otherwise leverage the financial security required hereunder. If proceeds of such financial security are insufficient to pay the cost of decommissioning of improvements covered by said security, the Board of Supervisors of the Township may, at its option, proceed with the decommissioning of all improvements and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements, including but not limited to the placement of a municipal lien against the property upon which the solar facilities were located.

d. The Solar Electric Facility owner and/or operator shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of decommissioning of improvements, including review of any plans, documents, or materials by the municipal engineer and/or Solicitor in connection therewith, as well as view of the site, if necessary. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or Solicitor for work performed for similar services performed for the Township.

e. As used herein, the "municipal engineer" shall be a duly registered professional engineer appointed by the Township or one engaged by the Township as a consultant.

f. Each Solar Electric Facility and all solar related equipment shall be removed by the owner and/or operator within twelve (12) months of the date that the use of the same has been discontinued or abandoned or upon expiration of the useful life of the same.

g. The Solar Electric Facility shall be presumed to be discontinued or abandoned if no electricity is generated by such SOLAR ELECTRIC FACILITY for a period of twenty four (24) continuous months or if no electricity is generated by such SOLAR ELECTRIC FACILITY for a nonconsecutive period of 365 days over an twenty four (24)-month period,

h. The Solar Electric Facility owner shall, at the request of the Township, provide documentation to the Township sufficient to show the daily amounts of energy generated by the Solar Electric Facility over the immediately preceding twenty-four (24) months.

Section 610.04 Duty to Maintain

The Solar Electric Facility owner and/or operator shall repair, maintain and replace the Solar Electric Facility and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the Solar Electric Facility in good repair and operating condition. The Solar Electric Facility must also be properly maintained and kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare, in the event of a violation of any of the foregoing provisions, the Township shall give written notice to the Solar Electric Facility owner and/or operator specifying the violation to the owner and/or operator of the Solar Electric Facility and permitting thirty (30) days for the Solar Electric Facility to conform to the law or to remove the Solar Electric Facility. Owner and/or operator shall repair, maintain and replace the Solar Electric Facility and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the Solar Electric Facility in good repair and operating condition. The Solar Electric Facility must also be properly maintained and kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare, in the event of a violation of any of the foregoing provisions, the Township shall give written notice to the Solar Electric Facility owner and/or operator specifying the violation to the owner and/or operator of the Solar Electric Facility and permitting thirty (30) days for the Solar Electric Facility to conform to the law or to remove the Solar Electric Facility.

Section 3, Adopted finally on the date set forth above and effective in 5 days.

CONEMAUGH TOWNSHIP SUPERVISORS:

By: _____
Supervisor

By: _____
Supervisor

By: _____
Supervisor

ATTEST:

_____(Seal)
Secretary