

## Ordinance No. 27-05

### CONNOQUENESSING BOROUGH, BUTLER COUNTY, PENNSYLVANIA

#### AN ORDINANCE AMENDING ORDINANCE NO. 27, ZONING, ESTABLISHING REGULATION AND PERMITTING OF ALTERNATIVE ENERGY FACILITIES WITHIN THE BOROUGH AND SETTING FORTH PROCEDURES FOR DESIGN, INSTALLATION, AND DECOMMISSIONING OF INSTALLED ALTERNATE ENERGY FACILITIES.

WHEREAS, to promote, protect and facilitate the public health, safety, morals, and the general welfare, as well as the preservation of the natural, scenic, and historic values in the environment and the preservation of forests, wetlands, aquifers and floodplains the Connoquenessing Borough Council enacted Ordinance No. 27, Zoning; and

WHEREAS, Alternative Energy Facilities involve activities that may impact the Borough's environment, infrastructure and related public health, safety, and welfare; and

WHEREAS, to assure Alternative Energy Facilities are undertaken in a manner that minimizes the impact on the Borough's environment and infrastructure, and that is consistent with the zoning objectives set forth above, the Borough has resolved to enact the following:

NOW THEREFORE, be it ORDAINED and ENACTED by the Borough Council of the Borough of Connoquenessing, Butler County, Pennsylvania, that the Borough Code of Ordinances, Chapter 27, Zoning, is hereby amended as follows:

**SECTION 1.** In Part 4, Definitions, the following definitions are hereby inserted in alphabetical order.

1. Facility: One or more buildings, structures, pieces of equipment, units, etc., that are provided for a particular purpose or specific use.
2. Small Wind Turbine Device: Wind generators and systems producing from one to 100 kWh of electricity, and which are designed to be mounted on a pole or tower or to be attached to the principal or an accessory structure and used solely to generate power to serve structures located on the same lot.
3. Solar Energy Facility and System: An electric-generating facility, with the purpose of generating electricity or providing hot water heat, including, but not limited to: solar panels, shingles, freestanding arrays or Smartflowers (or similar Hybrid High Concentration Photovoltaic Thermal (HCPVT) systems), and other ancillary associated buildings and structures, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.
4. Solar Flower (Smartflower): A flower-shaped solar panel array that attracts the sun and is completely portable. These are technically known as High Concentration Photovoltaic Thermal Systems ("HCPVT").

5. Wind Energy Facility: An electric-generating facility, with the purpose of supplying electricity, consisting of one or more wind turbines and other ancillary associated buildings and structures, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.
6. Wind Turbine: A wind energy system that converts wind energy into electricity using a wind turbine generator, which may be of horizontal or vertical shaft design.
7. Principal Solar Energy Systems and Facilities: A system designed to capture solar energy, convert it to electrical energy or thermal power, and supply said electrical or thermal power primarily for off-site use, including supplying it to a nearby electric utility's grid.

**SECTION 2.** In Part 8, Regulations Within Each Zoning District, section 802(3) Conditional Uses (in the Agricultural Zone District), the following conditional use is added as 802(3)(G):

H. Alternative Energy Facilities. See Part 12.

**SECTION 3.** In Part 12, Conditional and Special Exception Uses, the following section 1210 is added:

27-1210. Alternative Energy Facilities

- A. A Principal Solar Energy System, or PSES, shall comply with the following requirements to minimize impacts on the physical, social, and environmental conditions on adjoining and nearby landowners and businesses:
  1. 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 shall comply with the Pennsylvania Uniform Construction Building Code, as well as 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 Commercial Land Development Application.
  2. Location- Solar Energy Systems shall only be permitted in the Agricultural Zone, provided that all provisions are met. The minimum lot size shall be ten (10) acres.
  3. PSES shall be set back from the side yard property lines a minimum of one hundred (100) feet, from the rear yard property line a minimum of 100 feet, and from the front yard edge of road Right-of-way a minimum of 100 feet. PSES shall be set back from all perennial streams, runs, and/or creeks a minimum of 100 feet.
  4. Ground-mounted PSES shall not exceed twenty (20) feet in height.
  5. All on-site transmission and plumbing lines shall be placed minimally under solar panels and to the extent feasible underground so as not to be visible on the ground surface.
  6. Appropriate safety/warning signage concerning live voltage shall be placed on or within 3 feet of any ground mounted electrical devices, equipment, and/or structures.

7. No portion of the PSES shall contain, or be used to display, advertising.
  8. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. The applicant has the burden of proving, either through demonstration or mitigation, that any glare produced does not have a significant adverse impact or cause safety concerns for neighboring properties, neighboring property uses, or vehicular traffic. Of particular concern is lessening the impacts on those surrounding properties where an individual or individuals with Sensory Processing Disorder may reside or visit.
  9. Noise from a PSES shall not exceed 55 dBA at the nearest property line measured at a height of both 6 feet above the ground surface and also 15 feet above the ground surface. The applicant shall provide technical documentation acceptable to the Borough indicating that the noise standard will be achieved at all times. This documentation shall be in the form of a sound study completed for another installation by a certified sound consultant.
  10. PSES shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plants, evergreens, arborvitae, trees, or similar plants and shrubs which provide an effective visual screen.
  11. PSES shall be completely enclosed by a minimum eight (8) foot high security fence.
  12. 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 neighboring and adjacent properties. All outdoor lighting shall be aimed, located, designed, fitted, and maintained so as not to create glare, light pollution, and light trespass. Cutoff shields of less than 60 degrees shall be utilized as appropriate.
  13. 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.
  14. A Public Hearing shall be held by the Borough Council to afford the residents of the Borough the opportunity to comment on the proposed installation and give the company proposing the Principal Solar Energy System the opportunity to present their plans and answer technical questions that may be asked.
  15. Prior to the installation of any Principal Solar Energy System facilities, any company proposing said installation shall collect and analyze background soil samples in the area where the facilities are to be installed for pH, lead, selenium, cadmium, arsenic, chromium, and copper. Results shall be submitted to the Borough.
- B. Wind Energy Facilities shall comply with the following requirements to minimize impacts on the Borough's physical (soil and water), wildlife, and social environments, as well as on adjoining and neighboring property owners and the community in general:
1. Location: Wind Energy Facilities shall only be permitted in the Agricultural Zone, provided that all provisions are met. The minimum lot size shall be ten (10) acres.

2. 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.
3. To the extent applicable, the Wind Energy Facility shall comply with the Pennsylvania Uniform Construction Code.
4. 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.
5. Wind turbines shall be a non-obtrusive color such as white, off- white or gray.
6. Wind Energy Facilities shall not be artificially illuminated, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
7. No portion of a wind turbine shall contain, or be used to display, advertising.
8. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
9. Wind turbines shall be set back from side yard and rear yard property lines, as well as edge of the road right-of-way of any adjacent state or municipal road a distance not less than one and one-half (1.5) times the turbine height. Setback shall be measured from the center of the wind turbine base. Under no circumstances shall a wind turbine be located closer than 300 feet from an occupied dwelling on an adjacent property and 100 feet from all perennial streams, runs, and/or creeks.
10. Noise from a wind turbine shall not exceed 55 dBA at the nearest property line, measured at a height of both 6 feet above the ground surface and also 25 feet above the ground surface. The applicant shall provide technical documentation acceptable to the Borough indicating the noise standard will be achieved at all times. This documentation shall be in the form of a sound study completed for another installation by a certified sound consultant.
11. Wind Energy Facilities shall provide reasonable measures to minimize shadow flicker on any occupied building.
12. 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.
13. Acknowledging that properties may be of an irregular shape and geometric configuration, under no circumstances shall any blade or vane of a wind turbine facility protrude over the property line of the property upon which the facility is being

constructed or erected.

14. A Public Hearing shall be held by Borough Council or Planning Commission to afford the residents of the Borough the opportunity to comment on the proposed installation and give the company proposing the Wind Turbine Facility the opportunity to present their plans and answer technical questions that may be asked.
15. Prior to the installation of any Wind Turbine Facility, the company proposing said installation shall collect and analyze background soil samples in the area where the facilities are to be installed for pH, oil, grease lead, benzene, toluene, ethylbenzene (BTEX), cadmium, chromium, and zinc. This process of collecting and analyzing soil samples shall be repeated every five years on the anniversary date of when the facility was put online. Results shall be submitted to the Borough.
16. The Commercial Land Development submittal shall also discuss and address the protection of avian wildlife in and around the proposed installation.

C. Decommissioning PSES and WEF:

For this section, "Facility" shall mean either a Principal Solar Energy Facility and System or a Wind Energy Facility.

1. The Facility owner or operator shall, at its expense, complete decommissioning of the Facility within 6 months after 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 6 months.
2. Decommissioning shall include removal of solar panels or collectors, 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. Soil samples shall be collected and analyzed for the elements listed above respectively for a Principal Solar Facility or Wind Energy Facility. Results shall be submitted to the Borough. Any soil remediation work needed shall be included in decommissioning costs.
3. An independent and licensed professional engineer shall be retained by the Facility owner or operator to calculate the estimated cost of the complete decommissioning of the facility without regard to salvage value of the equipment. This value shall be known as the decommissioning cost. This cost shall also take into account any soil remediation necessary or anticipated. Said estimates shall be submitted to the Borough after the first year of operation and every fourth year thereafter on the anniversary of the startup date of the facility. The estimates should be adjusted by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) index based on the extraction date when installed compared to the future date the estimate is provided.
4. The Facility owner or operator shall post and maintain with the Borough decommissioning funds in an amount equal to decommissioning costs provided or a value of 100% of the decommissioning cost calculated by a registered professional engineer. The decommissioning funds shall be provided by a bonding company or

acceptable financial institution and maintained by the Borough in escrow 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 the 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 complete decommissioning within the prescribed period, then the Borough may take such measures as necessary to complete decommissioning at the cost of the Facility owner, operator, or property owner. The entry into and submission of evidence of a participating landowner agreement to the Borough shall constitute agreement and consent of the parties to the 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 the Borough concurs, that decommissioning has been satisfactorily completed, or upon written approval of the Borough in order to implement the decommissioning plan.

**D. Notice of Violation and Duty to Remedy**

Noncompliance with the provisions of this Ordinance constitutes a violation hereof, and the Borough or its designated Enforcement Officer shall issue a written notice of said violation to be served by personal service or by registered or certified mail upon the Facility owner, property owner, lessee, contractor, or operator of said property or premises or if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending property or premises.

Said notice shall specify the nature of the violation and shall require the person, company, firm, corporation, entity, owner, lessee, contractor, or operator to commence to remove or otherwise rectify the source or basis of the violation set forth therein within twenty-four (24) hours of mailing, posting or delivering said notice and thereafter to fully comply with the requirements of this Ordinance within thirty (30) calendar days thereafter.

**E. Violations and Penalties:** Any person, owner, firm, company, corporation, operator, or lessee violating any of the provisions of this Ordinance shall be deemed guilty of a summary offense and upon conviction thereof shall be fined an amount up to five hundred dollars (\$500.00). Each day a violation is committed or is permitted to continue shall constitute a separate offense and shall be punishable as such.

**F. Validity:** If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. Connoquenessing Borough hereby declares that it would have passed this ordinance, and each section, subsections, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**SECTION 4. REPEALER.**

All Ordinances code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

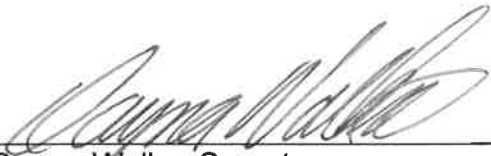
**SECTION 5. SEVERABILITY.**

Should any sentence, section, clause, part or provisions of this Ordinance amendment be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Duly presented and adopted at a regular meeting of the Council of the Borough of Connoquenessing, Butler County, Pennsylvania, held on the 5th day of March, 2024.

ATTEST:

BOROUGH OF CONNOQUENESSING

  
\_\_\_\_\_  
Dayna Walko, Secretary

By:   
\_\_\_\_\_  
Robert Campbell, Council President

(SEAL)

Examined and approved by me this 5<sup>th</sup> day of March, 2024.

By:   
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Raymond Betz, Mayor

