

TOWNSHIP OF PENN
ORDINANCE No. __ of 2024

PENN TOWNSHIP
WESTMORELAND COUNTY, PA

ZONING ORDINANCE TEXT AMENDMENT

AN ORDINANCE OF THE TOWNSHIP OF PENN, WESTMORELAND COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP ZONING ORDINANCE, NUMBER ____, TO ADD COMMUNITY DEVELOPMENT GOALS AND OBJECTIVES, AMEND DEFINITIONS TO MATCH LISTED USES AND UPDATE OUTDATED DEFINITIONS, AMEND THE TEXT WITHIN THE RURAL RESOURCE AND INDUSTRIAL COMMERCE ZONING DISTRICTS TO ADD AND REMOVE PERMITTED USES, ADD CRITERIA FOR NEW USES AND ADD SUPPLEMENTAL REGULATIONS FOR EXISTING USES, AND AMEND THE DIMENSIONAL STANDARDS TO BETTER ALIGN WITH THE COMMUNITY DEVELOPMENT GOALS AND OBJECTIVES.

WHEREAS, the Township of Penn, Westmoreland County, Pennsylvania (hereinafter “Township”) Township Board of Commissioners (hereinafter “Board”) desire to amend the Zoning Ordinance to better align with the amended Community Development Goals & Objectives of the Township regarding development within the Rural Resource and Industrial Commerce Zoning Districts, in a manner as authorized by and consistent with the Pennsylvania Municipalities Planning Code (hereinafter “MPC”);

WHEREAS, in the judgment of the Board, amending the definitions, permitted uses, dimensional standards and supplemental regulations in Chapter 190 – Zoning, will further enforce the intent of the Rural Resource and Industrial Commerce Zoning Districts regarding type of development and maintaining character while allowing for appropriate uses;

WHEREAS, the Board desires to amend the Township Zoning Ordinance to allow certain development within the Rural Resource and Industrial Commerce Zoning Districts;

WHEREAS, the Penn Township Planning Commission reviewed the proposed amendment on _____, _____, 20____ and recommended adoption to the Board on _____, _____, 20____;

WHEREAS, on _____, _____, 20____, the Board authorized advertisement of a public hearing at which the proposed ordinance amendment would be considered and the hearing was properly advertised on _____, _____, 20____ and _____, _____, 20____, pursuant to the requirements of the MPC;

WHEREAS, the Board held a public hearing on _____, _____, 20____, pursuant to the MPC, at which time testimony was received concerning the proposed ordinance amendment; and

WHEREAS, in the judgment of the Board, the proposed amendment is consistent with the Township’s overall comprehensive plan and advances the Township’s Community Development Objectives; and

WHEREAS, revisions in this document will appear as follows: ~~struck out~~ for items removed and **bolded and underlined** for items added.

NOW, THEREFORE, BE IT ENACTED by the Township of Penn, County of Westmoreland, Commonwealth of Pennsylvania, that the Township Zoning Ordinance, Ordinance ____, is amended as follows:

SECTION 1: Section §190-102, Purpose; interpretation; conflict of provisions, of the Zoning Ordinance follows:

§190-102 Purpose, **Community Development Goals & Objectives**, interpretation; conflict of provisions.

§190-102.C Community Development Goals & Objectives. The Penn Township Comprehensive Plan established community development goals and objectives to enhance the Township's future. Those goals include the following and any updated to the development objectives as part of an update to the Township's Comprehensive Plan are incorporated herein by the reference such that the objectives of the most recently adopted Comprehensive Plan apply.

- (1) **Encourage land use patterns to compliment orderly land development with an efficient and safe circulation system which minimizes traffic congestion and ensures existing facilities and services are maintained at levels meeting the needs of current and future residents of the Township.**
- (2) **Guide commercial and industrial development into areas with adequate infrastructure to include the rejuvenation of existing commercial areas to grow the nonresidential tax base.**
- (3) **Encourage the preservation of open space and the agricultural character of the Township.**
- (4) **Foster a balance of low-density residential development with large open spaces and higher density development to support growth of mixed-use and commercial areas.**

SECTION 2: Section §190-202, Definitions, is amended as follows:

ACCESSORY SOLAR ENERGY SYSTEMS (ASES)

An area of land, or other area, used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power primarily for on-site consumption and not for distribution to or use by any other structure or party on any other lot or parcel. An accessory solar energy system consists of one (1) or more free-standing ground or roof-mounted solar energy arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. An accessory solar energy system is an accessory use and must be subordinate to the principal use on the property. ASES may be found nationally, regionally, and locally, to be associated on the same lot with both residential and non-residential uses.

AGRICULTURAL SUPPLY AND EQUIPMENT SALES

AGRICULTURAL EQUIPMENT, RENTAL, SALES & REPAIR

A retail establishment which sells, **rents, and/or repairs** equipment and supplies used in the pursuit

of agriculture.

AGRIVOLTAICS

The co-development of the same area of land for both solar photovoltaic power and “Normal Farming Operations” as defined by P.L. 454, No. 133 (1982) the Protection of Agricultural Operations from Nuisance Suits and Ordinances Act, or any successor laws.

ANIMAL HOSPITAL

~~An establishment where animals are examined and treated by veterinarians and which may include kennels in a completely enclosed building for temporary boarding of animals during treatment.~~

AUTOMOTIVE CONVENIENCE FACILITY

~~A retail store selling groceries, household goods and prepackaged and prepared food-related products, for off-site consumption, and which may or may not include the dispensing and sale of gasoline.~~

- (1) A use that primarily engages in the provision of frequently or recurrent needs and goods for household consumption, such as prepackaged goods and beverages, newspapers, and limited household supplies, to customers who generally purchase a few items. This use may or may not include the dispensing and sale of gasoline.
- (2) Convenience stores with seating intended for dining for ten (10) or more patrons shall provide additional parking based on restaurant parking requirements, in addition to the convenience store requirements.

AUTOMOTIVE SALES, SERVICE, AND REPAIRS

The retail sales, rental, and service of automobiles, motorcycles, and trucks under 26,000 GVW, but not including any heavy equipment or any other vehicles which is not classified as a “motor vehicle” under the Pennsylvania Motor Vehicle Code, and which may include the servicing and repair of customers’ vehicles. This use may include a car wash, as defined by this Ordinance, as an Accessory Use.

CO-GENERATION FACILITIES

A facility that simultaneously generates electricity and usable heat from a single energy source.

GLARE

The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GROUP HOME

~~A dwelling where room and board is provided to not more than six permanent residents (excluding those adjudicated by the Juvenile Court system), developmentally challenged or physically handicapped persons of any age or elderly persons, 62 or more years of age, who are in need of supervision and specialized services, plus no more than two supervisory staff on any shift who may or may not reside in the dwelling and who provide health, social and/or rehabilitative services to the residents. The services shall be provided only by a governmental agency, its licensed or certified agents or any other responsible nonprofit~~

social services corporation, and the facility shall meet all minimum requirements of the sponsoring agency.

A dwelling unit that houses at least three (3), but no more than eight (8), residents who maintain a common household and practice on a permanent or long-term basis, a joint economic, social and cultural life where support services including, supervision, personal care, social or counseling services and transportation to persons who need such assistance because of physical disability, old age, mental retardation or other "handicap" or "disability" as defined by the Fair Housing Amendments Acts or the Americans with Disabilities Act; but shall not involve the housing of persons on a transient basis, nor shall it involve the housing or treatment of persons who are criminal offenders, juvenile offenders or delinquents or any persons who have been found by any government tribunal, court or agency to be a danger to society, or who are on release or are under jurisdiction of the criminal justice system, a government bureau of corrections or similar institution.

HOTEL

A building in which lodging or boarding is provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours, not including a boardinghouse, a tourist home or an apartment, which are herein separately defined. **This may include services including restaurants, meeting rooms, or recreational facilities.**

INDUSTRIAL, HEAVY

~~Any process, other than light industrial, involving the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts and the blending of raw materials.~~

The processing and fabrication of certain materials and products where the process involved will produce noise, vibration, environmental impacts, fire hazards, noxious emissions, or significant traffic impacts which will disturb or endanger neighboring properties.

MOTEL

~~An establishment, other than a hotel, which provides transient lodging accommodations to the general public and which may provide such additional supporting services as restaurants, meeting rooms, recreation facilities and living quarters for a resident, manager or proprietor. A structure in which lodging is provided for the accommodation of guests, offered to the public for compensation, which contains an office supervised by a person in charge at all hours with a majority of rooms having direct access to the outside.~~

MULTI-TENANT OFFICE BUILDING

A professional office building that houses several clients, or businesses, that conduct services related to their profession.

PLANNED OFFICE PARK

A designated area of land, ten (10) acres minimum in size, planned, developed, and operated by a single entity, in which multiple office buildings are grouped together on one (1) lot.

POWER PLANT

A facility designed to generate electricity from various energy sources for distribution.

PRINCIPAL SOLAR ENERGY SYSTEM

An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

MINI WAREHOUSE OR SELF-STORAGE DEVELOPMENT BUILDING

A building or group of buildings in a controlled-access and fenced compound that contains various sizes of individualized, compartmentalized and controlled access stalls and/or lockers leased by the general public for a specified period of time for the storage of personal property.

SOLAR ARRAY

A grouping of multiple solar modules with the purpose of harvesting solar energy.

SOLAR ARRAY CONNECTION

The low-voltage electric lines which connect Solar Related Equipment.

SOLAR CELL

The smallest basic solar electric device which generates electricity when exposed to light.

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 for the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY

Radiant energy (direct, diffuse, and/or reflective) received from the sun.

SOLAR ENERGY FACILITY

An area of land used for a solar collection system principally to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power.

SOLAR FACILITY CONNECTION

The high-voltage electric conveyance lines which connect a Solar Energy Facility to the Solar Project Connection.

SOLAR FARM

A use where a series of solar collectors are placed in an area for the purpose of generating photovoltaic power for an area greater than the principal use on the site or as the principal use on the site for off-site energy consumption. The use of solar collectors for personal or business consumption that occurs on-site is not considered a "solar farm."

SOLAR MODULE

A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL

That part or portion of a solar energy system 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.

TRUCK STOP

A commercial use that primarily involves providing fuel and other services to tractor-trailer trucks. This use may also involve providing repair services, sale of gifts and various household items, a restaurant, showers, and a motel.

VETERINARY FACILITY

An establishment where animals are medically, surgically, or diagnostically treated, whether or not the animals are kept for treatment. Veterinary facilities may include veterinary hospitals, veterinary clinics, and teaching hospitals.

WAREHOUSING

The storage and handling of freight or merchandise, but not including the maintenance or fueling of commercial vehicles.

WAREHOUSING/LOGISTICS

A building or group of buildings on the same lot used for the indoor storage of goods, products and materials and/or receipt of bulk products and separation and distribution of those products to another Warehouse/Logistics Use or to individual end-user consumers. This use may include value-added services between supplier and its customers, such as breaking down of large orders from a single source into smaller orders (break-bulk functions), products mixing, sorting, packaging, cross-docking, order fulfillment, order returns, the consolidation of several orders into one larger or for distribution to several recipients and/or vice versa, but shall not include Retail or Manufacturing Uses. This use shall be classified as:

Small Warehouse/Logistics: A Warehouse/Logistics Use that does not exceed 25,000 square feet of gross floor area per lot.

Large Warehouse/Logistics: A Warehouse/Logistics Use that exceeds 25,000 square feet of gross floor area per lot.

SECTION 3: Section §190-402.A, Purpose, is amended as follows:

The RR Rural Resource District is established in order to provide land for continuing agricultural operations, resource management, timber harvesting, outdoor recreation, public and private conservation areas, low-density single-family residential to maintain the rural character of the Township, and ~~compatible~~ support compatible uses.

SECTION 4: Section §190-402.B, Permitted principal uses, is amended as follows:

B. Permitted principal uses.

- (1) ~~Agricultural equipment, rental, sales, equipment~~ Agricultural equipment, rental, sales & repair (minimum three acres).
- (2) Agricultural operations (minimum 10 acres).

- (3) Automotive convenience facility (minimum two acres).
- (4) Bed-and-breakfast (minimum one acre).
- (5) Blacksmith (minimum one acre).
- (6) Boarding stable (minimum 10 acres).
- (7) Care facilities (minimum two acres).
- (8) Cemeteries (minimum three acres).
- (9) Colleges and universities (minimum three acres).
- (10) Commercial kennels (minimum two acres).
- (11) Conventional drilling (minimum one acre).
- (12) Day-care home (minimum one acre).
- ~~(13) Duplex (minimum one acre).~~
- ~~(14) Dwelling, multifamily (minimum of one acre, maximum of four dwelling units in a structure, 1/4 acre minimum per structure).~~
- ~~(15)~~13 Government facilities (minimum one acre).
- ~~(16)~~14 Group homes (minimum one acre).
- ~~(17)~~15 Hospitals and clinics (minimum two acres).
- ~~(18) Mini-warehouse for personal storage.~~
- ~~(19)~~16 Personal services establishment (minimum two acres).
- ~~(20)~~17 Private trade or commercial school (minimum three acres).
- ~~(21)~~18 Professional offices (minimum two acres).
- ~~(22)~~19 Public parks and recreation facilities (minimum three acres).
- ~~(23)~~20 Schools, public and private (minimum three acres).
- (21) Self-storage development (minimum five acres).**
- ~~(24)~~22 Single-family detached dwelling (minimum ~~one~~ **half an** acre **when connected to public water and sewer, minimum one acre with on-lot utilities**).
- ~~(25)~~23 Sportsman club (minimum three acres).

- (~~2624~~) Timber harvesting (minimum five acres).
- (~~2725~~) (Reserved)
- (~~2826~~) Veterinary facility ~~including animal hospitals~~ (minimum two acres).
- (~~2927~~) ~~Worship facilities~~ **Place of worship** (minimum one acre).

SECTION 5: Section §190-402.C, Permitted accessory uses/structures, is amended as follows:

C. Permitted accessory uses/structures.

- (1) Nonresidential: Those accessory uses customarily incidental to permitted principal uses on the same lot including, but not limited to the following:
 - (a) Agricultural accessory uses and structures such as barns, silos, corn cribs, chicken coops and equipment storage sheds.
 - (b) Garages for the storage of material and vehicles used in the operation of a permitted principal use.
 - (c) Identification signs.
 - (d) Satellite dish antennas.
 - (e) Agritourism (see § 190-642).
 - (f) Accessory Solar Energy Systems (ASES).**

SECTION 6: Section §190-402.D, Conditional uses, is amended as follows:

D. Conditional uses.

- (1) Mobile home and RV parks.
- (2) Outdoor recreation, commercial.
- (3) Recreational facilities, membership.
- (4) Age-restricted community. **[Added 11-16-2022 by Ord. No. 954]**
- (5) Principal Solar Energy Systems (PSES)**

SECTION 7: Section §190-406.A, Purpose, is amended as follows:

- A. Purpose: The IC Industrial Commerce District is established in order to provide for **current and future** heavy and light industrial, processing, planned light industrial and planned commerce uses, in

addition to ~~warehousing and distribution~~ **warehousing and logistics**, supply yards, and compatible support uses **while prohibiting the development of future residential development or uses.**

SECTION 8: Section §190-406.B, Permitted principal uses, is amended as follows:

B. Permitted principal uses:

- (1) Agricultural equipment, rental, sales, repair.
- (2) Agricultural operations.
- (3) Automotive convenience facilities.
- (4) Automotive sales, service and repairs.
- (5) Automotive service and repair with washing.
- ~~(6) Bed and breakfast.~~
- ~~(7) Car wash.~~
- ~~(8) Care facility.~~
- ~~(9) Community center.~~
- (7) Co-generation facilities.**
- ~~(10) Conventional drilling.~~
- ~~(11) Conversion apartments.~~
- ~~(12) Distribution/warehousing.~~
- ~~(13) Drive-through businesses~~ **Drive-through facilities.**
- ~~(14) (Reserved)~~
- ~~(15) Government facilities.~~
- ~~(16) (Reserved)~~
- ~~(17) Health and fitness facilities~~ **Health club.**
- (14) Hotels**
- ~~(15) Light industrial, research and development incubator.~~
- (16) Research & development facility**
- ~~(17) Industrial, heavy and processing.~~

~~(20) Mini-warehouse, personal storage~~

~~(21) Mixed-use structure.~~

~~(22)~~¹⁸ Motels. and hotels.

~~(23)~~¹⁹ Oil and gas operations, conventional.

~~(24)~~²⁰ Outdoor advertising sign.

(21) Places of worship

~~(25)~~²² Planned mixed-use commerce park.

~~(26)~~²³ Planned office parks.

~~(27)~~²⁴ Power plants and co-generation facilities.

~~(28)~~²⁵ Professional offices. services.

~~(29) Public parks and playgrounds.~~

~~(30)~~²⁶ Restaurants.

~~(31)~~²⁷ Retail.

~~(32)~~²⁸ Sanitary landfill.

(29) Self-storage development.

~~(33) Single-family detached.~~

~~(34)~~³⁰ Single- or ~~m~~-Multi-tenant office building.

~~(35)~~³¹ Supply and contractor yards Supply yard.

~~(36)~~³² Timber harvesting.

~~(37) Truck terminals.~~

SECTION 9: Section §190-406.C, Permitted accessory uses/structures, is amended as follows:

- C. Permitted accessory uses/structures. Those accessory uses customarily incidental to permitted principal uses on the same lot including, but not limited to:
- (1) Parking and loading areas and private and public garages.
 - (2) Storage buildings for goods or materials used in the operation of the principal uses.
 - (3) Identification signs.

- (4) Satellite dishes.
- (5) Above- and in-ground fuel and waste storage tanks.
- (6) ~~No impact home-based business.~~ **Accessory Solar Energy Systems (ASES).**

SECTION 10: Section §190-406.D, Conditional uses, is amended as follows:

D. Conditional Uses:

- (1) Adult businesses.
- (2) Hospitals and clinics.
- (3) Natural gas compressor stations.
- (4) Natural gas processing plant.
- (5) Principal Solar Energy Systems (PSES).**
- ~~(56)~~ Recreation facilities, membership.
- ~~(67)~~ Surface mining.
- (8) Truck stop.**
- (9) Warehousing/logistics.**

SECTION 11: Section §190-406.F, Dimensional standards, is amended as follows:

F. Dimensional standards:

- (1) Minimum lot area:
 - (a) Processing and light industrial uses: 87,120 square feet (two acres) unless otherwise specified.
 - (b) Service and residential uses: ~~65,340~~ **21,780** square feet (1.5 acres) **if connected to public water and sewer. If not connected to public water and sewer, the minimum lot area shall be 43,560 square feet (1 acre).**
 - (c) All other permitted and conditional uses: 87,120 square feet (two acres) unless otherwise specified.
- (2) Minimum required yards:
 - (a) Front yard: ~~75~~ **50** feet from closest property or building setback line.
 - 1) If the lot or proposed use is across from a residential district or use, the front yard setback shall be 75 feet from the closest property or building setback line.**

- (b) Side yard: 40 feet except for interior units in a multiple use structure, then zero side yards shall be permitted.
 - 1) The side yard setback shall be 50 feet when the use abuts a residential use or district.**
 - (c) Rear yard: 35 feet from closest property line on subject property.
 - 1) The rear yard setback shall be 45 feet from the closest property line on the subject property if it abuts a residential district or use.**
 - (d) Accessory structures: 20 feet from closest side and rear lot lines on subject property.
- (3) Minimum frontage:
- ~~(a) Front yard: 75 feet from closest property or building setback line.~~
 - ~~(b) Side yard: 40 feet except for interior units in a multiple use structure, then zero side yards shall be permitted.~~
 - ~~(c) Rear yard: 35 feet from closest property line on subject property.~~
 - ~~(d) Accessory structures: 20 feet from closest side and rear lot lines on subject property.~~
 - (ea) Processing and light industrial uses: 200 linear feet at the building setback line unless otherwise specified.**
 - (fb) Service and residential uses: 120-100 linear feet at the building setback line unless otherwise specified.**
 - (gc) All other permitted and conditional uses: 150 linear feet at the building setback line unless otherwise specified.**
- (4) Design standards:
- (a) Height:
 - 1) Principal structure: **Maximum** 75 feet.
 - 2) Accessory structure: **Maximum** 45 feet.
 - (b) Lot coverage, all structures: 80% **maximum**.
 - ~~(5) Density: maximum four dwelling units per acre, unless otherwise specified.~~
- (65) Parking: See Article VI Section §190-623.**

SECTION 12: Section §190-503, Conditional Uses, is amended as follows:

J. Truck Stop, as defined by this Ordinance, is subject to the following:

- (1) The maximum lot size for a Truck Stop shall be three (3) acres.**
- (2) A traffic study for the proposed use shall be required.**
- (3) The site shall have direct access to either a State Route or a minor or major arterial roadway.**
 - (a) If the site accesses a State Route, a copy of an approved Highway Occupancy Permit (HOP) from the Pennsylvania Department of Transportation (PENNDOT) shall be submitted to the Township prior to issuance of permitting.**
- (4) All property lines adjoining a Residential Use or Residential District classification shall provide a buffer of 75 feet and shall be screened in accordance with this Ordinance.**
- (5) All underground fuel storage tanks shall be in full conformance with all applicable state and/or federal regulations.**
- (6) The applicant shall verify that the internal circulation of the site can be conducted in a safe and efficient manner.**
- (7) All areas used for repairing or fueling of trucks shall be set back a minimum 250 feet from an existing residential dwelling.**
- (8) A copy of state approved permits and plans showing exact locations of tanks, piping and appurtenances shall be filed with the Township.**
- (9) Regular maintenance of the site shall be maintained including waste disposal, cleanliness of the parking areas, and landscaping.**
- (10) Idling of tractor trailers shall not be permitted.**
- (11) Overnight parking shall not be permitted.**
- (12) All performance standards in §190-635 shall be met.**

K. Warehousing/Logistics, as defined by this Ordinance, is subject to the following:

- (1) Minimum Lot Size**
 - (a) The minimum lot size for a Small Warehouse/Logistics Use having a total gross floor area less than 99,999 square feet shall be two (2) acres.**
 - (b) The minimum lot size for a Medium Warehouse/Logistics Use having a total gross floor area between 100,000 square feet and 149,999 square feet shall be five (5) acres.**

- (c) The minimum lot size for a Large Warehouse/Logistics Use having a gross floor area in excess of 150,000 square feet shall be ten (10) acres.
- (2) Storage of garbage (other than what is routinely produced on site and awaiting regular collection) shall not be permitted.
- (3) Off-Street Parking and Loading Requirements in §190-624 shall be met.
- (4) Overnight parking shall be prohibited.
- (5) Loading docks shall be located at the rear of the building whenever physically possible.
- (6) Access and Internal Circulation.
 - (a) Adequate spacing for truck queuing, to the satisfaction of the Board of Commissioners, shall be provided on-site to prevent trucks from queuing on public roadways.
 - (b) All access points shall be located to minimize traffic congestion and ensure safe ingress and egress. Direct access to a state roadway or a minor or major arterial roadway is preferred.
 - (c) Internal circulations shall be designed to accommodate large vehicles, including turning radii.
 - (d) Pedestrian walkways shall be clearly marked and separated from vehicular traffic.
- (7) Landscaping and Lighting.
 - (a) A minimum of 10% of the site shall be landscaped.
 - (b) A buffer of twenty (20) feet, beyond the required buffer for the respective Zoning District, shall be provided along all property lines adjacent to a Residential Zoning District or Residential Use and effectively screened containing a combination of trees, shrubs, and fencing.
 - (c) All exterior lighting shall be designed to minimize glare and light spillover onto adjacent properties.
 - (d) Lighting shall be shielded and directed downward.

L. Industrial, Heavy, as defined by this Ordinance is subject to the following:

- (1) The minimum lot size for Industrial, Heavy uses shall be 20 acres.
- (2) Industrial, Heavy operations shall not be conducted within 300 feet of any property lines adjoining a Residential Use or Residential Zoning District Classification.

- (3) All property lines adjoining a Residential Use or Residential Zoning District classification shall be screened in its entirety and be in accordance with specific landscape standards provided in §156-24 of the Penn Township Subdivision and Land Development Ordinance.
- (4) If the Industrial, Heavy use required any permits from the Pennsylvania Department of Environmental Protection (DEP) and/or the U.S. Department of Environmental Protection Agency (EPA), a copy of the permit shall be provided to the Township prior to issuance of any Township permits.
- (a) If this Industrial, Heavy use requires such permit as mentioned in Subsection D of this Section, the permits shall be maintained throughout the duration of the use.
- (b) Any suspension or revocation of such required permits as mentioned in Subsection D of this Section shall constitute a violation of this Ordinance and will result in the suspension or revocation of the zoning permit or enforcement of the penalty provisions of this Ordinance or both.

SECTION 13: Section §190-650, is to be added to the Zoning Ordinance as a new section as follow:

§190-650 Principal Solar Energy Systems (PSES)

- A. PSES shall be permitted by Conditional Use within the Rural Resource (RR) and Industrial Commerce (IC) Zoning Districts.
- B. Exemptions:
- (1) A PSES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSES, whether or not existing prior to the effective date of this Section shall require a permit under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.
- C. Criteria Applicable to All Solar Energy Facilities (SEF):

The SEF layout, design, and installation shall conform to good industry practice. "Good industry practice" shall mean practices, methods, standards and acts engaged in or approved by a significant portion of the solar power industry for similar facilities in similar geographical areas that are similar in size and complexity as the same may change from time to time that, at a particular time, in the exercise of reasonable professional judgement in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable law, regulation, codes, good business practices, reliability, safety, environmental protection economy, expedition and shall comply with the Pennsylvania Uniform Construction Code (PUCC) and with all other applicable fire and life safety requirements.

The application shall include a construction transportation plan that shows all roadways that will be utilized to access the site, which will be forwarded to the Township for review.

- D. DC Voltage Solar Array Connections may be located above ground. AC Solar Facility connections should be located above ground where the applicant can demonstrate that the overall environmental impacts would support above ground location. Solar Project Connections may be located above ground. No portion of the SEF shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the SEF, provided they comply with the prevailing sign regulations.

The owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries, emergencies, and complaints throughout the life of the SEF and provide this number and name to the Township. This contact information shall also be placed on a sign attached to the entrance gate. The SEF owner and/or operator shall make reasonable efforts to respond to the public's inquiries and comments.

An Emergency Response Plan shall be included with the application, which shall be reviewed and approved by relevant Emergency Management Agencies.

- E. PSES Installers must demonstrate they are listed as a Certified Installer on the Pennsylvania Department of Environmental Protection's (DEP) approved solar installer list or they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

- (1) Is certified by the North American Board of Certified Energy Practitioners (NABCEP).
- (2) Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPCQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three (3) PV systems.

- F. The owner of a PSES shall provide the Township written confirmation that the public utility company, to which the PSES will be connected, has been informed of the customer's intent to install a grid connected system and approved of such connection.

- G. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES, provided they comply with the prevailing sign regulations set forth in this Ordinance.

- H. Glare.

- (1) All PSES shall be placed in such a manner that concentrated solar radiation or glare does not project onto nearby structures or roadways.

- I. Noise Study.

- (1) A noise study shall be performed and included in the application.
- (2) The noise study shall be performed by an independent noise study expert and paid for by the applicant.

(3) Noise from a PSES shall not exceed 50 dBa, as measured at the property line.

J. Landscaping.

(1) No trees or other landscaping otherwise required by this Ordinance, or attached as conditions of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

K. The PSES owner and/or operator shall maintain a phone number and identify a person responsible for the Township to contact with inquiries and complaints throughout the life of the project. The owner and/or operator shall make reasonable efforts to respond to inquiries and complaints reported.

L. Decommissioning.

(1) The SEF owner and/or operator is required to notify the Township immediately upon cessation or abandonment of the operation within thirty (30) days. The SEF shall be presumed to be discontinued or abandoned if no electricity is generated from the solar panels for a period of twelve (12) consecutive months. The SEF owner and/or operator shall then have twelve (12) months in which to dismantle and remove the SEF, including all solar related equipment or appurtenances related thereto, including, but not limited to, buildings, cabling, electrical components, roads, foundations, solar facility connections and other associated facilities in accordance with agreements with landowners and good industry practice. 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 by federal or state law. Any soil exposed during the removal shall be stabilized in accordance with applicable erosion and sediment control standards and requirements. Any access drive paved aprons from public roads shall remain for future use unless directed otherwise by the landowner.

(2) The SEF site area shall be restored to its preexisting condition, suitable for its prior use. The landowner may authorize in writing that any buffer landscaping or access roads installed to accommodate the SEF will remain.

(3) Any necessary permits, such as Erosion & Sedimentation and NPDES permits, shall be obtained prior to decommissioning activities.

(4) The Developer shall, at the time of the zoning application, provide the Township with a professional engineer's estimate of the cost of performing the decommissioning activities required herein. The SEF Owner shall provide financial security of 110% of the estimated cost of decommissioning, which will be reviewed by the Commissioners and the Township Engineer and which shall not be less than Two Hundred Fifty Thousand Dollars (\$250,000.00). 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 salvage and re-sale value = the Decommissioning Cost Estimate

- (5) On every 5th anniversary of the date the decommissioning financial security is provided, the SEF Owner shall provide an updated decommissioning cost estimate, utilizing the formula set forth above with adjustments for inflation and cost and value changes. If the updated decommissioning security amount varies more than 10%, the decommissioning financial security shall be adjusted accordingly. The decommissioning security may be in the form of cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institution in the amount of 110% of the total proposed decommission cost estimate and in a form satisfactory to the Township.
- (6) Prior to final approval of any SALDO plans for the SEF, the SEF Developer shall enter into a Decommissioning Agreement with the Township outlining the responsibility of the parties under this Agreement as to the decommissioning of the SEF.
- M. Prior to the issuance of a zoning permit, PSES applicants must acknowledge, in writing, that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:
- (1) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property.
- (2) The right to prohibit the development on or growth of any trees or vegetation on such property.
- N. Solar Easements.
- (1) Where a subdivision or land development proposed a PSES, solar easements may be provided. Easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements.
- (2) Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easements shall include:
- (a) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to specified surface or structure design feature may not be obstructed.
- (b) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.
- (c) Enumerate terms and conditions, if any, under which the easement may be revised or terminated.

- (d) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement for the owner of the real property benefiting from the solar easement in the event of interference with the easement.
- (e) If necessary, a PSES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

O. Permit Requirements.

- (1) All PSES shall comply with the Township's Subdivision and Land Development Ordinance. Land Development approval is required. The installation of a PSES shall be in compliance with all applicable permit requirements, codes and regulations.
- (2) The PSES owner and/or operator shall repair, maintain, and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to the PSES in good repair and operating condition.

SECTION 14: Section §190-651, Ground Mounted Solar Energy Facilities, is to be added to the Zoning Ordinance as a new section as follow:

- A. Ground Mounted Solar Energy Facilities (SEF). The SEF Development Area equal to the total acres of land subject to lease by the SEF Developer. Where the area of land subject to the lease is greater than 75% of the parcel, the entire parcel will be considered the SEF Development Area.**
- (1) Solar Array Locations. The SEF Development Area may be located only on 50% of the Class I, II, and III agricultural soils within the SEF Development Area, unless the area will be devoted to Agrivoltaic activities, in which case, 75% of the Class I, II, and III soils may be included in the SEF Development Area. For each parcel on which a SEF or a component of a SEF is proposed, a map shall be provided by the applicant detailing the SEF Development Area, the Constrained Area, the Class I, II and III agricultural soils, and the portion of the SEF Development Area that may be devoted to Solar Arrays. Solar Arrays shall only be placed within that portion of any lot that lies within the portion of the SEF Development area that may be devoted to Solar Arrays. Solar Arrays shall not be located in:
 - (a) Floodways, as identified in the FEMA FIRM Mapping.
 - (b) Within fifty (50) feet of the top of the bank of any stream, river, drainage corridor, FEMA delineated floodway and/or delineated wetland unless an encroachment permit is obtained through the Pennsylvania Department of Environmental Protection (DEP).
 - (c) Slopes in excess of 15%.
 - (d) Legal easements or road rights-of-ways.
 - (e) Ground mounted SEF's shall not be placed within any stormwater conveyance system.

- (f) A Solar Energy Facility may not be larger than ten (10) acres in size.
- (2) Setbacks. Minimum setbacks shall be in accordance with the respective Zoning District requirements.
 - (a) Where an SEF is adjacent to a residential use or residential designated zoning district, a minimum setback of six hundred (600) feet from the property line shall be required.
- (3) Height.
 - (a) All ground-mounted solar panels shall have a maximum height of fifteen (15) feet.
 - (b) All other SEF components shall comply with the respective Zoning District maximum height requirements.
 - (c) There are no maximum height restrictions for structures that support SEF connections and Solar Project connections.
- (4) Stormwater Management. Stormwater runoff from an SEF shall be managed in accordance with Penn Township Ordinances.

Where Solar Panels are mounted above the ground surface allowing for vegetation below the panels, the horizontal area of the panel may be considered a Disconnected Impervious Area (DIA), and therefore, will have no increase from the pre-development runoff coefficient. The horizontal area of the panel can only be considered a DIA if the following conditions apply:

- (a) Where natural vegetative cover is preserved and/or restored utilizing low impact construction techniques from the Pennsylvania Department of Environmental Protection Stormwater Best Practices Manual, including, but not limited to the following: minimizing the total disturbed area, minimizing soil compaction in disturbed areas, and re-vegetating and reforesting disturbed areas using native species.
- (b) Where the vegetative cover has a minimum uniform 70% perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation.
- (c) For panels located on slopes of 0 to 15%, a minimum 4 inches height of vegetative cover shall be maintained.
- (d) Vegetated areas shall not be subject to chemical fertilization or herbicide/pesticide application, except for those applications necessary to establish the vegetative cover or to prevent invasive species and in accordance with an approved Erosion and Sedimentation Plan.
- (e) The horizontal area of any Solar Panel or Solar Array that cannot meet all the conditions to be considered DIA shall be treated as impervious area. These areas shall be included in the pre-development to post-development runoff analysis as impervious area to determine the need for Post Construction Stormwater Management Practices. Use of

gravel would not allow the horizontal area of the Solar Panel or Solar Array to be considered DIA. All impervious areas associated with the SEF, such as roadways and support buildings, cannot be considered a DIA and shall follow normal protocols when performing the PCSM stormwater analysis.

(5) Screening. Ground mounted SEF shall be screened in accordance with the following standards:

(a) To the extent practical, screening shall be installed around the entire perimeter of the SEF installation in addition to landscape requirements listed in Penn Township Subdivision and Land Development Ordinance and Penn Township Zoning Ordinance.

(b) All screening shall be installed along the exterior side of any fencing.

(6) Security. All ground mounted SEFs shall be completely enclosed by a minimum seven (7) foot high fence with a self-locking gate. The gate shall be kept free of all vegetation. A clearly visible warning sign shall be placed at the base of all pad mounted transformers and substations and on the fence surrounding the SEF informing individuals of potential voltage hazards.

(7) Access. At a minimum, a 14-foot-wide stabilized access road must be provided from a state or municipal roadway to the SEF site that is maintained year-round in a dust free condition. The SEF Developer shall obtain a permit from the appropriate jurisdiction for the construction of the access road. At a minimum, a 20-foot wide cartway shall be provided on the inside perimeter fencing between the fence and Solar Array. Spacing between Solar Array rows shall allow access for maintenance vehicles and emergency vehicles. Access to the SEF shall comply with the municipal access requirements in the Subdivision and Land Development Ordinance (SALDO).

(8) The Ground mounted SEF shall not be artificially lit except to the extent required by the applicable federal, state, or local authority or as required for safety purposes.

B. Roof and Wall Mounted Principal Solar Energy Facilities.

(1) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township that the roof and wall is capable of holding the load imposed on the structure.

(2) PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the respective Zoning District.

SECTION 15: Section §190-652, Accessory Solar Energy Facilities (ASES), is to be added to the Zoning Ordinance as a new section as follow:

A. ASES shall be permitted as a use by right in all Zoning Districts. Such use shall be subordinate to and produce electricity for only the principal use.

B. Exemptions

- (1) ASES with an aggregate collection and/or focusing area of one hundred (100) square feet or less are exempt from these regulations.
- C. The ASES layout, design, installation and on-going maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (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), or other similar certifying organizations; and shall comply with the PA Uniform Construction Code (UCC) as enforced by the Township; and 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 application.
- Upon completion of installations, the ASES shall be maintained in good working order, in accordance with the standards set forth in the Penn Township Zoning Ordinance. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement by the Township in accordance with all applicable Ordinances.
- D. ASES installers must certify to the Township that they are listed as a "Certified Installer" on the PA Department of Environmental Protection (DEP) approved solar installer list, or that they meet, or exceed, the criteria to be a DEP-approved installer.
- E. All on-site utility, distribution lines, and plumbing shall be placed underground to the extent feasible.
- F. The owner of an ASES shall provide written confirmation to the Township that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid-connected system and such connection has been approved. Off-grid systems shall be exempt from this requirement.
- G. The display of advertising is prohibited except for reasonable size identification of the manufacturer of the system in compliance with all applicable requirements of the Penn Township Zoning Ordinance and as approved by the Zoning Officer.
- H. All ASES shall be placed such that concentrated solar radiation or glare does not cause a nuisance to adjacent property owners and shall be a minimum five (5) feet from the property line.
- I. Solar Easements
- (1) Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements.
- (2) Any such easement shall be appurtenant; shall run with the land benefitted and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include, but not be limited to:

- (a) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;
 - (b) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 - (c) Enumerate terms and conditions, if any, under which the easement may be revised or terminated;
 - (d) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefitting from the solar easement in the event of interference with the easement;
 - (e) Owner information, deed book volume and page number or document number, along with the parcel identification number.
- (3) If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate agreement(s) with adjacent property owner(s).
- J. By accepting a permit issued by the Township for the ASES, the applicant shall be deemed to have acknowledged and agreed that the issuance of said permit for a solar energy system shall not, and does not, create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:
 - (1) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining property or other property or the growth of any trees or vegetation on such property; or
 - (2) The right to prohibit the development on or growth of any trees or vegetation on such property.
- K. Decommissioning
 - (1) Each ASES and all solar-related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.
 - (2) The ASES shall be presumed to be discontinued or abandoned, if no electricity is generated by such solar collector for a period of twelve (12) months.
 - (3) The ASES owner shall, at the request of the Township, provide information concerning the amount of energy generated by the ASES in the last twelve (12) months.
- L. Permit Requirements

- (1) Zoning and/or building permit applications shall document compliance with this section and shall be accompanied by drawings showing the location of the system on building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.
- (2) The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.
- (3) The ASES must be properly maintained and be kept free from all hazards, including, but 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 Zoning Officer shall give written notice specifying the violations to the owner of the ASES to conform or to remove the ASES.

M. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:

- (1) A roof or wall mounted ASES may be located on a principal or accessory structure.
 - (a) ASES located on the roof of any building or structure where the principal use is of commercial or industrial nature shall be used for the sole purpose of serving the on-site electricity needs of the principal use and shall not be used to generate electricity for sale to a public utility or third party through net metering, power purchase agreements, or any similar agreement.
- (2) ASES mounted on roofs or walls of any structure shall be subject to the maximum height regulations specified for principal and accessory structures within the underlying Zoning District in which they are located.
- (3) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying Zoning District in which they are located.
- (4) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the PA Uniform Construction Code (PA UCC) and any applicable building codes of the Township that the roof or wall is capable of bearing the load imposed on structure.

N. Ground Mounted Accessory Solar Energy Systems

- (1) Setbacks
 - (a) Ground mounted ASES are prohibited in front yards between the principal structure and the street.
 - (b) A ground mounted ASES may be located in the portion of the front yard, not between the principal structure and the street, provided that: (1) the applicant demonstrates that, due to solar access limitations, no other location exists on the property where the ASES can function effectively; and (2) vegetative screening is provided.

(2) Height

- (a) Freestanding ground mounted ASES shall not exceed the maximum accessory structure height in the respective Zoning District.

(3) Coverage

- (a) The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable Zoning District.

(4) Screening

- (a) Ground mounted ASES shall be screened from any adjacent property that is zoned, or used, for residential purposes. The screen shall consist of plant materials which provide a visual screen from the adjacent property. In lieu of a vegetative screen, a decorative fence meeting the Zoning Ordinance requirements may be used.
- (5) Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.
- (6) Ground mounted ASES shall not be placed within any legal easement or right-of-way location.
- (7) Ground mounted ASES shall not be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater management system.

SECTION 18. Repealer: All ordinances, code sections or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 19. 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 at a regular meeting of the Township of Penn Board of Commissioners, Westmoreland County, Pennsylvania, the proposed ordinance amendment is hereby

ORDAINED AND ENACTED THIS ____ DAY of _____, 20____.

PENN TOWNSHIP
BOARD OF COMMISSIONERS

ATTEST:

Township Secretary

DRAFT