

**LOWER WINDSOR TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 23-~~1~~**

**AN ORDINANCE OF LOWER WINDSOR TOWNSHIP, YORK COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF LOWER WINDSOR BY ADDING A NEW CHAPTER 360, TO BE ENTITLED "SOLAR FACILITIES, UTILITY GRADE", WHICH CHAPTER PROVIDES FOR REGULATIONS AND APPLICABLE CRITERIA FOR UTILITY GRADE SOLAR FACILITIES WITHIN THE TOWNSHIP; PROVIDES FOR RULES AND REGULATIONS FOR THE CONTINUED OPERATION OF SUCH FACILITIES; AND PROVIDES FOR ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE.**

**WHEREAS**, Lower Windsor Township, York County, Pennsylvania ("Township" or "Municipality") is a Second Class Township duly organized and existing under the Second Class Township Code, 53 P.S. §35101 et seq; and

**WHEREAS**, advances in solar energy technology have resulted in increased prevalence of utility grade solar facilities across the Commonwealth of Pennsylvania; and

**WHEREAS**, the Supervisors of the Township of Lower Windsor wish to promote the general health, safety, and welfare of the community by adopting and implementing this Ordinance; and

**WHEREAS**, the purpose of this Ordinance is to set regulations and applicable criteria for utility grade solar facilities within the Township; to provide rules and regulations for the continued operation of such facilities; and to provide for the administration and enforcement of the Ordinance.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** and it is hereby enacted and ordained by the Board of Supervisors of Lower Windsor Township as follows:

- 1) The Code of the Township of Lower Windsor is hereby amended to add a new chapter to the Code of the Township of Lower Windsor, to be known as Chapter 360, entitled "Solar Facilities, Utility Grade" to read as follows:

ARTICLE I  
Utility Grade Solar

**§ 360-1. Title.**

This chapter shall be known as the Lower Windsor Township Solar Facilities, Utility Grade Ordinance

**§ 360-2. Definitions and Word Usage.**

The following words, when used in this chapter, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

**ACCESSORY BUILDING:** A building subordinate to and detached from the principal building on the same lot and used for purposes customarily incidental to the principal building.

**AGRIVOLTAICS:** The practice of using farmland, range, or pasture for agriculture (including raising of livestock) per the "Normal Farming Operations as defined by P.L. 454, No. 133 (1982), the Protection of Agriculture Operations from Nuisance Suits and Ordinance Act" at the same time that Solar Panels (as defined below) on that property generate electrical energy from sunlight and transmit it back to the electrical grid for public consumption.

**APPLICANT:** The individual or entity seeking approval for a Solar Energy Facility pursuant to this Ordinance. The owner of the real property upon which the Solar Energy Facility shall be erected, as well as the Applicant, shall be responsible for compliance with this Ordinance.

**BUFFER:** A landscaped area, or an area of preserved vegetation, intended to be used as a means of limiting the potentially adverse effects created by a use onto adjoining properties, streets, and uses.

**BUFFER YARD:** An area whose dimensions normally exceed the normal building setback or yard requirement used to protect low-density uses and zoning districts from adjacent higher intensity uses and districts. Buffer Yards shall be measured from the property boundary line.

**DECOMMISSIONING:** The act of dismantling and removing the Solar Energy Facility, including all solar related equipment or appurtenances related thereto, including, but not limited to, buildings, cabling, electrical components, roads, foundations, solar facility connections and the associated facilities in accordance with agreements with landowners and good industry practice.

**FINANCIAL SECURITY:** A cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow account from a federal or Commonwealth chartered lending institution to be given to the Municipality in the amount of 110% of the total proposed decommissioning costs and in a form satisfactory to the Municipality and Municipality's Solicitor.

**GLARE:** The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility to a reasonable person of ordinary sensibilities.

**PRIME AGRICULTURAL SOILS:** Soils of the first, second or third class as defined by the most recent edition of the United States Department of Agriculture, Natural Resources Conservation Services, York County Soil Survey.

**PRINCIPAL BUILDING:** A building in which is conducted the principal use of the lot on which it is located.

**SCREEN PLANTING/SCREENING** – Evergreen and/or deciduous trees and bushes, walls, fences, and/or earthen berms of sufficient height and density to conceal from the view of properties, the structures and uses on the premises on which the screen planting/screening is located. Plantings, including trees and shrubs are typical of species and varieties native and/or grown in climatic conditions similar to local climatic conditions.

**SOLAR EASEMENT:** 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 Facilities.

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

**SOLAR ENERGY FACILITY (SEF):** An area of land five (5) acres or more, 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 primarily for off-site use.

**SOLAR ENERGY PROJECT:** A grouping of two or more Solar Energy Facilities which are held by owner or leased to a common lessor, and which are part of a single solar energy production development project.

**SOLAR ENERGY PROJECT OWNER:** The individual, group or entity responsible for the permitting, construction and/or operation of a Solar Energy Facility to the Solar Project Connection.

**SOLAR COLLECTION SYSTEM:** A solar photovoltaic cell, module/panels, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

**A. SOLAR ARRAY:** A grouping of multiple solar modules/panels with the purpose of harvesting solar energy.

**B. SOLAR CELL:** The smallest basic solar electric device which generates electricity when exposed to light.

**C. SOLAR MODULE:** A grouping of solar cells with the purpose of harvesting solar energy.

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

**SOLAR FACILITY CONNECTION:** The medium-voltage or high-voltage electric conveyance lines which connect a Solar Energy Facility to the Solar Project Connection.

**SOLAR FACILITY OWNER/OPERATOR:** The individual, group or entity responsible for the permitting, construction and/or operation of a Solar Energy Facility to the Solar Project Connection.

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

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

**WOODLAND:** A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees larger than 12 inches diameter at breast height ("DBH"), covering an area of ¼ acre or more, or consisting of 10 individual trees larger than six inches DBH, shall be considered a "Woodland". The extent of any Woodland plant community or any part thereof shall be measured from the outermost dripline of all the trees in the plant community.

### **§ 360-3. Solar Energy Facility.**

#### **A. Regulations/Criteria Applicable to All SEFs:**

- (1) The SEF layout, design and installation shall conform to good industry practice. "Good industry practice" shall mean the practices, methods, standards, and acts (engaged in or approved by a significant portion of the solar power industry for similar facilities in similar geographic 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 judgment in light of the facts known at the time the 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 PA Uniform Construction Code and with all other applicable fire and life safety requirements. During the land development stage, the Applicant shall submit Solar Related Equipment specifications and certifications demonstrating Good industry practice.
- (2) SEF installers must certify they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list, are certified by the North American Board of Certified Energy Practitioners (NABCEP) or have installed at least two similarly sized SEFs in the past ten years.
- (3) An existing conditions plan shall be required as part of the subdivision and land development process, showing existing watercourses, flood-prone areas with base flood elevation, steep slopes (15-25% slopes and greater than 25% slopes), Prime Agricultural Soils, Woodlands and tree masses, other significant natural features, such as rock outcroppings, springs, swampy areas and wetlands. Street rights-of-way, easements, utilities, neighboring residences and significant man-made features shall be added.
- (4) All on-site utility transmission lines and plumbing shall be placed underground to the greatest extent feasible.
- (5) DC voltage Solar Array Connections may be located above ground. AC Solar Facility Connections shall be placed underground to the greatest extent feasible.
- (6) At the time of subdivision and land development submittal, the Applicant shall include a construction transportation plan that shows all roadways that will be utilized to access the site, which shall be forwarded to the Municipality for review. The plan shall address conditions for repair or replacement if damage to municipal roads occurs during construction activities.
- (7) The owner of a SEF shall provide the Municipality written confirmation that the public utility company to which the SEF will be connected has been informed of the customer's intent to install a grid connected system and approved of such

connection. The owner shall provide a copy of the final inspection report or other similar approval from the utility company to the Municipality prior to the issuance of a certificate of use and occupancy for the SEF.

- (8) If a SEF is being used as an accessory use for commercial/industrial activity on another property, the Municipality shall be informed of such intent.
- (9) 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 Township sign regulations.
- (10) SEFs shall be located to minimize concentrated glare on adjacent properties or streets. The Township may require reasonable corrective actions after installation of the SEF to eliminate glare to adjacent properties or street which causes a risk to public health or safety.
  - (a) The Township may require a glare study to be completed and submitted with the final land development plan and then again six months after operation of the SEF.
- (11) All SEF shall be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
- (12) A baseline noise study shall be performed and submitted to the Township during the land development phase, and another noise study shall be performed and submitted to the Township within six (6) months after commencement of operations. The noise study will be performed by an independent noise study expert approved by the Township and paid for by the Applicant. Noise from a SEF, as measured at the property lines, shall not exceed **[45dBA]** or otherwise create excessive noise which constitutes a nuisance as determined by the Township. The Applicant will install mitigation measures acceptable to the Township to mitigate any noise exceedance identified by the study.
- (13) At the entrance of the SEF, the SEF owner and/or operator shall maintain identification of a local person or entity responsible for the public to contact with inquiries, complaints, and public safety issues, throughout the life of the project and provide the number and name to the Township. Anytime this information changes, the Township and the posting shall be updated.
- (14) Applicant shall have the burden of proving that the SEF won't unreasonably harm existing wildlife or existing wildlife corridors.
- (15) Upon installation, the SEF shall be maintained in good working order in accordance with the standards of the codes under which the SEF was constructed.

- (16) The following requirements apply to decommissioning:
- (a) The SEF owner is required to notify the Municipality immediately upon permanent cessation or abandonment of the operation. The SEF shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.
  - (b) If it is determined that an SEF has permanently ceased its operation, or has been abandoned, the SEF owner shall have eighteen (18) 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 the associated facilities in accordance with agreements with landowners and good industry practice.
  - (c) In the event that the present SEF owner has temporarily ceased its operation but is in the process of transferring ownership and SEF management, the present owner has the responsibility of notifying the Municipality which will allow this transference to occur within 18 months of this notification.
  - (d) To the extent possible, all 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.
  - (e) Any soil exposed during the removal shall be stabilized in accordance with applicable erosion and sediment control standards.
  - (f) Any access drive paved aprons from public roads shall remain for future use unless directed otherwise by the landowner.
  - (g) The SEF site area shall be restored to its pre-existing condition, suitable for its prior use, except the landowner may authorize, in writing, any buffer landscaping or access roads installed to accommodate the SEF to remain.
  - (h) Any necessary federal, state and local permits, such as Erosion and Sediment pollution Control and NPDES permits, shall be obtained prior to decommissioning activities.
  - (i) Prior to any issuance of a zoning or building permit for the SEF, the owner shall provide financial security in the form and amount acceptable to the Municipality and in favor of the Municipality, to secure its obligations under this Section.
- (17) The SEF developer shall, at the time of the Land Development application, provide the Municipality with an estimate of the cost of performing the decommissioning activities required herein. The solar project owner shall provide financial security of 110% of the estimated cost of decommissioning. The estimate may include an estimated salvage and resale value, discounted by a factor of 10%. The decommissioning cost estimate formula shall be: gross cost

of decommissioning activities minus 90% credit of salvage and resale value equals the decommissioning cost estimate.

- (18) On every 5<sup>th</sup> anniversary of the date of providing the decommissioning financial security, the SEF owner shall provide an updated decommission cost estimate, utilizing the formula set forth above with adjustments for inflation and cost and value changes. If the decommissioning security amount increases, the SEF owner shall remit the increased financial security to the Municipality within 30 days of the approval of the updated decommissioning security estimate by the Municipality. If the decommissioning security amount decreases by greater than 10%, the Municipal owner shall release for security any amounts held in excess of 110% of the updated decommission cost estimate.
- (19) Decommissioning security estimates shall be subject to review and approval by the Municipality, and the SEF developer/owner shall be responsible for administrative, legal, and engineering costs incurred by the Municipality for such review.
- (20) The decommissioning security may be in the form of cash deposit, surety bond, irrevocable letter of credit, cashier's check, or escrow amount 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 Municipality and their solicitor. Any time ownership of the SEF changes, the security shall be updated.
  - (a) Prior to final approval of any plans for a SEF, the SEF developer shall enter into a decommissioning agreement with the Municipality outlining the responsibility of the parties under this agreement as to the decommissioning of the SEF.

B. Ground-Mounted SEF:

- (1) The SEF development area is 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 area, the entire parcel will be considered to be the SEF development area.
- (2) Solar Related Equipment Locations.
  - (a) Solar Related Equipment is limited to 20% of the total development/disturbed area containing prime agricultural soils (as defined in the Zoning Ordinance and mapped in the Comprehensive Plan).
  - (b) The following Low Impact Site Preparation shall be utilized:
    - (i) Existing vegetation shall be left intact where possible, or low growing native vegetation species or crops used.



- (ii) Existing topsoil shall be left in place to allow for the successful growth of native vegetation and to promote soil health post-decommissioning of the solar project.
  - (iii) Natural contours of the land shall be worked into the design and configuration of the SEF, with minimal if any land grading required.
  - (iv) Soil and vegetation shall be left intact to facilitate the growth of native vegetation, improved stormwater management through less runoff and erosion and soil health.
  - (v) Lower land footprint for foundations of vertical support structures, often driven piles.
  - (vi) Vegetation shall be pollinator species and native fauna.
  - (vii) Operation and Maintenance activities (Herbicide spraying and mowing) shall be kept to a minimum as needed to control invasive vegetation.
- (c) 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 of the prime agricultural soils, and the portion of the SEF development that may be devoted to Solar Related Equipment.
- (d) Solar Related Equipment shall not be located in:
- (i) Special Flood Hazard Areas, Zone AE or Zone A, as identified in the FEMA FIRM mapping or as defined by Pennsylvania Department of Environmental Protection.
  - (ii) Regulated natural and man-made drainage corridors, extending twenty-five (25) feet from the top of bank of any such drainage feature.
  - (iii) Wetlands.
  - (iv) Riparian buffers extending twenty-five (25') feet from any wetland or the top of bank of any body of water.
  - (v) Slopes in excess of twenty-five percent (25%).
  - (vi) Legal easements and rights-of-way.
- (e) Woodland areas largely consisting of mature hardwood trees are to remain undisturbed and shall not be removed for the purposes of creating SEFs. Clearcutting of natural forested areas shall be prohibited.
- (f) The Developer or Applicant of a SEF is responsible for a Title Search and shall be compliant with any deed restrictions, conditions and/or easements associated with the property.

- (3) Minimum Lot Size and Lot Coverage
  - (a) The SEF shall meet the lot size requirements of the applicable zoning district.
  - (b) The lot coverage within the Agricultural District shall be limited to twenty (20)% total lot coverage for access drives and equipment, and an additional forty (40)% coverage for solar panels.
- (4) Setbacks
  - (a) Ground-Mounted SEFs shall be set back a minimum of fifty (50) feet from all property lines and street rights-of-way and one-hundred fifty (150) feet from all occupied residential structures.
  - (b) Required fences shall be considered principal structures for purposes of setbacks.
  - (c) No side or rear setback will be required where a Solar Energy Project spans across lot lines, provided each landowner has signed a written waiver of the lot line setback.
- (5) Ground-Mounted SEFs shall not exceed twenty-five (25) feet in height.
- (6) Stormwater Management.
  - (a) Stormwater runoff from a Ground-Mounted SEF shall be managed in accordance with the requirements of the Lower Windsor Township Stormwater Management Ordinance.
  - (b) Vegetative cover is required to be maintained under all panels.
  - (c) A written erosion and sediment control plan shall be developed for agricultural plowing or tilling activities, or a portion of the overall farm conservation plan identifies BMPs used.
  - (d) If the property will be used for grazing of livestock, and/or manure application to crop land, a Manure Management Plan must be developed.
- (7) Screening and Buffer Yards. Ground-Mounted SEF shall be screened and buffered in accordance with the following standards:
  - (a) Vegetative screening shall be a minimum twenty-five (25) feet wide and shall be installed around the entire perimeter of the SEF installation, except where the Municipality determines that the retention of existing trees within the vegetative screening area may constitute the required vegetative screen or where the Municipality determines that the solar panels cannot be shielded by the installation of screening.
  - (b) The vegetative screening shall be installed along the exterior side of the fencing.

- (c) All required vegetative screening shall be located within fifty (50) feet of the required fencing.
  - (d) Vegetative screening shall be designed to emulate the mix of native species and appearance of existing tree lines, hedge rows, and wooded areas already in existence within the landscape where the SEF is proposed. The Applicant shall assess the species mix and characteristics found in existing tree lines, hedge rows, and wooded areas surrounding the SEF and document that the vegetative buffering is designed to emulate these characteristics. The design shall be prepared by a licensed professional.
  - (e) No less than 20% of vegetative screen plantings shall be pollinator friendly species. Invasive species are not permitted.
  - (f) Vegetative screening shall be selected to provide year-round buffering and shall be of sufficient height, density, and maturity to screen the facility from visibility, as set forth herein within thirty-six (36) months of the installation of the SEF.
  - (g) A combination of natural topography and vegetation can serve as a screen, provided that the SEF will not be visible from public roads, public parks or existing residences on surrounding properties. Earthen berms alone may not be used to meet these screening and buffer yard provisions.
  - (h) The screening requirements of this section shall supersede the provisions of the zoning ordinance or subdivision and land development ordinance as they may pertain to SEFs.
  - (i) Buffer yards shall be fifty (50) feet wide and shall be installed around the entire perimeter of the SEF installation.
  - (j) An Operation and Maintenance Agreement shall be submitted which includes a plan to control invasive species.
- (8) Security.
- (a) All Ground-Mounted SEFs shall be completely enclosed by fencing that consists of a minimum eight (8) foot high fence with a self-locking gate. This fencing may consist of agricultural-style fence or "game" fence so long as the fencing meets all applicable regulations.
  - (b) 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.
- (9) Access.
- (a) Stabilized access drives that are maintained in a dust-free condition from a state or township road are required in order to allow maintenance and

emergency management vehicles to access the SEF site. The minimum cartway width shall be fourteen feet (14'). The SEF developer shall obtain a permit from the appropriate jurisdiction for the construction of the access road.

- (b) At a minimum, a twenty feet (20') wide cartway shall be provided on the inside of the perimeter fencing between the fence and the Solar Array.
  - (c) Spacing between Solar Array rows shall allow access for maintenance and emergency vehicles.
  - (d) Access to the SEF shall comply with the municipal access requirements found in the subdivision and land development ordinance.
- (10) Lighting. The Ground-Mounted SEF shall not be artificially lit except to the extent required for safety or applicable federal, state, or local authorities. Any lighting shall be directed downward so as to minimize negative impacts to adjacent uses.

#### **§360-4. Administration and Enforcement.**

##### **A. Applications**

- (1) Permit applications shall document compliance with this Ordinance and the Subdivision and land development ordinance and shall be accompanied by drawings showing the location of the Solar Energy Facility on the property, including property lines, setbacks, and general development areas. Permits must be kept on the premises where the SEF is located.
- (2) The permit shall be revoked if the SEF is moved or otherwise materially altered, either intentionally or by natural forces, in a manner which causes the SEF not to be in conformity with this Ordinance.
- (3) The SEF must be properly maintained and be kept free from all hazards including, but not limited to, faulty wiring, loose fastenings, creating unsafe conditions or environments detrimental to public health, safety or general welfare.
- (4) An approved land development plan shall accompany all permit applications.
- (5) Changes in ownership or facility operation shall be communicated to the Municipality immediately.

##### **B. Fees and Costs**

- (1) The Applicant shall pay all permit application fees and inspection fees when seeking approval of a Solar Energy Facility under this Ordinance, which fees shall be set by resolution.
- (2) The Applicant shall, prior to receipt of an approved permit, reimburse the Township for any actual fees or costs incurred arising out of or related to the

Application and its review (collectively the "Costs"). The Costs shall include, but not be limited to, engineering, zoning officer, building code official and legal fees.

- (3) Nonpayment of fees may result in a lien against the property.

#### C. Waivers & Modifications

- (1) The Board of Supervisors may grant a waiver or modification of the requirements of one or more provisions of this Ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the property in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the Ordinance is observed.
- (2) All requests for modification shall be in writing and shall fully state the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.

#### D. Enforcement

- (1) Upon the receipt of a written complaint setting forth the existence of unauthorized construction, modification, or use in violation of this Ordinance, or other notice thereof, the Municipality's Zoning Officer, Code Enforcement Officer, Solicitor or other representative that may be authorized by the Municipality's governing body (the "Enforcement Officer") shall cause written notice to be given either by personal service or registered or certified mail to the Applicant of the Property upon which the violation exists, to immediately cease the construction, modification or the unauthorized use of the SEF. Such a written notice shall be required to enforce the remedies set forth in this section. However, the Municipality shall still be entitled to give a verbal notice for defective systems as authorized above.
- (2) Upon failure of such Applicant to comply as directed in said notice within thirty (30) days of receipt of said notice, the Enforcement Officer, other Municipal officials or solicitor may appear on behalf of the Municipality and initiate legal proceedings to enforce the provisions of this Ordinance before a District Magistrate.
- (3) Any Applicant who or which shall violate or permit to be violated the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding brought by Lower Windsor Township before a District Magistrate, pay a fine of not less than Six Hundred (\$600.00) nor more than One Thousand (\$1,000.00) Dollars, plus all court costs, including reasonable attorney's fees incurred by Lower Windsor Township as a result thereof. No fine shall commence or be imposed, levied, or be payable until the date of the determination of the violation by a District Magistrate. Each day that a violation exists and is continued shall constitute a separate offense, unless the District Magistrate who determines

that a violation has occurred further shall determine that there was a good faith basis for the defendant to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination by such District Magistrate and thereafter every day shall constitute a separate offense. In addition, the Municipality shall also be entitled to recover from any Applicant all the Municipality's costs or fees (collectively the "Costs") arising out of or related to the application or enforcement of this Ordinance. Such Costs may also include those to remedy violations of this Ordinance or to abate nuisances. The Costs shall include, but not be limited to, engineer fees, geologist fees, attorney fees, zoning officer fees, and staff/employee time. The Costs may be collected as a Municipal Claim under applicable law against the property upon which the Solar Energy Facility, or portions thereof, is located.

**§360-5. Construction and Severability.**

- A. The provisions of this Ordinance shall be construed to the maximum extent possible to further the purposes and policies set forth herein, as consistent with applicable state statutes and regulations. If the provisions of this section and state law are in conflict, then state law shall prevail.
- B. It is the intention of the Board of Supervisors of Lower Windsor Township that the provisions of this Ordinance are severable and if any provisions of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining provisions of this Ordinance.

**§360-6. Repealer.**

- A. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.
- B. This Ordinance shall be effective five (5) days after enactment.

**ENACTED AND ORDAINED** by the Board of Supervisors of Lower Windsor Township this 12 day of October, 2023.

**ATTEST:**  
  
Rudolf Zimmerman  
Secretary

**BOARD OF SUPERVISORS OF  
LOWER WINDSOR TOWNSHIP**

BY:

[Signature]  
Chairman

[Signature]  
Vice-Chairman

\_\_\_\_\_  
Supervisor