

**KINGSTON TOWNSHIP  
LUZERNE COUNTY, PENNSYLVANIA  
ORDINANCE NO. O-2025-6**

**AN ORDINANCE OF KINGSTON TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA,  
AMENDING CHAPTER 27 (ZONING) OF THE KINGSTON TOWNSHIP CODE TO SET  
FORTH REQUIREMENTS FOR PRINCIPAL SOLAR ENERGY SYSTEMS AS  
CONDITIONAL USES IN A-1 AGRICULTURAL DISTRICTS AND M-1 MINING  
DISTRICTS**

**WHEREAS**, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§ 10101 et seq., enables a municipality through its zoning ordinance to regulate the use of property and promote the conservation of energy through access to and use of renewable energy resources; and

**WHEREAS**, Kingston Township seeks to promote the general health, safety, and welfare of the community by adopting amendments to Chapter 27 (Zoning) of the Kingston Township Code providing for access to and use of utility scale solar energy facilities, identified herein as Principal Solar Energy Systems, or PSES; and

**WHEREAS**, the purpose of this ordinance is to set forth requirements for Principal Solar Energy Systems as conditional uses in A-1 Agricultural Districts and M-1 Mining Districts.

**NOW THEREFORE, KINGSTON TOWNSHIP HEREBY ORDAINS**, and it is hereby enacted and ordained as follows:

**SECTION 1:** Kingston Township Code Chapter 27 (Zoning), Section 502 (A-1 Agricultural Districts), Subsection 2. (Conditional Uses) is amended by adding at the end thereof the following:

- F. Principal Solar Energy Systems (PSES) subject to the standards for Principal Solar Energy Systems (PSES) as conditional uses set forth at § 351.

**SECTION 2:** Kingston Township Code Chapter 27 (Zoning), Section 510 (Mining District), Subsection 3. (Conditional Uses) is amended by adding before “Accessory uses to the above” the following:

Principal Solar Energy Systems (PSES) subject to the standards for Principal Solar Energy Systems (PSES) as conditional uses set forth at § 351.

**SECTION 3:** Kingston Township Code Chapter 27 (Zoning), Part 3 (General Provisions) is amended by adding a new Section numbered “351” entitled “Principal Solar Energy Systems (PSES)” and providing as follows:

1. Definitions. The following definitions shall apply to this Section unless the context clearly requires otherwise; in this Section, the singular shall include the plural and the plural the singular, unless the context clearly requires otherwise.

**APPLICANT**

Every person seeking conditional use approval for a PSES pursuant to this Section, and the Owner, Landowner, and Operator as each is defined herein.

**OWNER**

Every person having legal or equitable title to or any interest in the PSES.

**LANDOWNER**

Every person owning real property on which any part of a PSES is or is proposed to be located pursuant to an agreement between such person and an Owner or Operator or other person.

**NON-PARTICIPATING LANDOWNER**

Every person owning real property lying within 300 feet of a real property parcel on which any part of a PSES is or is proposed to be located pursuant to an agreement between a Landowner and an Owner or Operator or other person.

**OPERATOR**

Every person responsible for the day-to-day operation and maintenance of a PSES.

**MATURE TREE**

An unfelled tree at least 5 inches in diameter measured at 4.5 feet from the ground, or a freshly felled otherwise living tree 5 inches or greater in diameter measured at the base of the stump.

**PERSON**

Includes a natural person, corporation, partnership, limited liability company, business trust, joint venture, other association, estate, trust, or other legal or commercial entity, and including their respective heirs, personal representatives, transferees, successors, and assigns.

**PRIVACY FENCING**

A fence designed and intended to inhibit the public view and provide seclusion.

**PRINCIPAL SOLAR ENERGY SYSTEM or PSES**

An electric generating facility whose main purpose is to capture solar or thermal energy, convert it to electrical energy, and supply such energy primarily for off-site use, and including every element of such facility. The terms “Principal Solar Energy System” and “PSES” as used in this Section include, in the broadest sense, each and every element of

the PSES, whether necessary, ancillary, or incidental to the operation of the PSES, including without limitation solar panels, thermal collectors, mounting structures, cabling and wiring, inverters, battery energy storage systems, substations, transmission lines, buildings, roads, stormwater management systems, fencing, vegetative and tree buffering, and the parcel(s) of real estate on which any element of the PSES is located.

## **2. Applicability.**

- A.** This Section shall apply to every PSES proposed to be constructed after the effective date of this Section, and to any physical modification to an existing and permitted PSES that increases or alters the size, type, number, generating capacity, or storage capacity of any element of the PSES. This Section is not intended to apply to any electric generating facility constructed or physically modified to use the majority of power generated for on-site residential, on-site business, or on-site agricultural purposes.
- B.** Routine repairs to and maintenance of a PSES, including minor repairs, like-kind replacements of existing fixtures or parts, cleaning, inspections, performance checks, recalibrations, tilt angles, inverter maintenance, post-maintenance grid reconnections, and vegetative maintenance, shall not be considered a physical modification subject to the requirements of this Section.

## **3. Conditional Use.**

- A.** It shall be unlawful for any person to construct, operate, or physically modify a PSES without first obtaining a conditional use permit pursuant to and in compliance with the provisions of this Section.
- B.** A PSES shall be considered a conditional use only in an A-1 (Agricultural District) and an M-1 (Mining District).
- C.** All applications for a conditional use permit under this Section shall be submitted to the Township Zoning Officer at least twenty-one (21) days before a regular meeting of the Township Planning Commission, together with the payment of all prevailing conditional use application fees. The Zoning Officer shall not accept an incomplete application. No application shall be considered complete until all necessary documents have been filed and all fees have been paid to the Township. The Zoning Officer shall notify the Applicant in writing whether the application is complete within ten business days of receipt of the application. If the application is complete, it shall be considered accepted as of the date of mailing or emailing of the notice to the Applicant. If the application is incomplete, the Zoning Officer shall advise the Applicant in writing of any deficiencies that must be addressed before the application will be considered complete.
- D.** It shall be the burden of the Applicant to demonstrate compliance with the standards for

conditional use contained in this Section and with any other relevant stipulations pursuant to this Section, and to indicate means by which potential impacts from the proposed use will be mitigated.

**E. Conservation easements; Woodland areas.**

(1) This use is prohibited on any property subject to a public conservation easement or open space conditions, or any similar restriction.

(2) If the removal of trees is necessary in order to construct a PSES, such removal shall be as limited as possible. Every mature tree removed shall be replaced by the Applicant with a like-kind species of tree seedling at a location proposed by the Applicant and approved by the Township at a ratio of two (2) new trees for every one (1) mature tree removed. Replacement trees shall be planted within six (6) months of the date of removal of the original tree(s). Replacement trees shall be inventoried and monitored by the Applicant for a period of four (4) years to ensure their survival. Replacement trees that do not survive shall be replaced within six (6) months.

**4. Permits; Concurrent applications; Failure to reimburse application review costs and fees; Compliance with all applicable ordinances, regulations, and procedures.**

**A.** Nothing in this Section shall be construed to relieve the Applicant for a conditional use from applying for and obtaining other required approvals mandated by Chapter 22, Subdivision and Land Development, and by all other applicable ordinances.

**B.** Conditional use approval is required prior to obtaining Land Development Plan approval. The Conditional Use approval and Land Development Plan processes may be concurrent. All necessary stormwater plan approval, E & S Control permits, and NPDES permits must be approved prior to receiving final Township approval of the Land Development Plan. An approved Land Development Plan is required for application for a zoning permit.

**C.** Failure by the Applicant to reimburse the Township for all application review costs and fees as indicated in subsection 7.C. of this Section, shall, after written notice from the Township Zoning Officer to the Applicant formally requesting reimbursement, be grounds for denial of an application without prejudice.

**D.** No building or zoning permit shall be issued until all regulations and procedures in this Section have been satisfied; all applicable ordinances and regulations in the Kingston Township Code have been satisfied; and all applicable requirements of the Commonwealth of Pennsylvania and United States Government have been satisfied as evidenced by the prior written approval of the state or federal agency having jurisdiction, including without limitation the operator's license and copies of all state and federal permits.

E. No certificate for use and occupancy of a PSES shall be issued until the Owner or Operator shall have provided to the Township Zoning Officer a copy of the final inspection and interconnection approval report for the PSES from the public utility company to which the PSES proposes to be connected.

5. Regulations governing Principal Solar Energy Systems as conditional uses.

A. An application for a conditional use under this Section shall include eight (8) copies of the following information and documentation:

- (1) A narrative describing the proposed PSES, including a statement of expected public benefits of the project; an overview of the project; the location of the PSES; the approximate generating capacity of the PSES; the approximate number, representative types and height or range of heights of all solar panels or thermal collectors to be constructed, including generating capacity, dimensions, and manufacturers; and a description of all necessary, ancillary, and incidental elements of the PSES.
- (2) A copy of the lease document, less financial compensation terms, that shows the Applicant has entered into an agreement for site control and that defines the ownership of the proposed assets to be placed on the property.
- (3) An affidavit, lease, or power of attorney between the Landowner and the Owner or Operator demonstrating that the Owner or Operator has the permission of the Landowner to apply for necessary permits for construction and operation of the PSES.
- (4) A list of all local, state, and federal governing and regulatory bodies having jurisdiction over the PSES, and copies of all required permits, licenses, or approvals from all such bodies.
- (5) Written confirmation that the public utility company to which the PSES proposes to be connected has been informed of the Applicant's intent to install a grid connected system. The written confirmation shall include a statement of capacity and a statement from the public utility company indicating conditional approval (pending final inspection by the public utility company) of the proposed connection.
- (6) Precise identification of the real property parcel(s) for which the conditional use is requested; a list of names and addresses of all Landowners, all Non-Participating Landowners, and all tenants of all real property parcels lying within 300 feet of any real property parcel on which any part of a PSES is or is proposed to be located; and copies of written notification of the proposed project to all Non-Participating Landowners and all said tenants.
- (7) A site plan diagramming existing topography, existing development, existing mature

trees, and the planned dimensions and location of every element of the PSES within the geographical boundaries of any applicable setback.

- (8) Precise information, supported by equipment and component manufacturers' noise ratings, sufficient to determine compliance with the noise regulation in Subsection 5.B.(1)iv. of this Section.
- (9) The Landscape Plan required by Subsection 5.B.(1)vii.2.c. of this Section.
- (10) Information (e.g., preliminary site grading, preliminary stormwater management analysis, sewage disposal, etc.) sufficient to preliminarily determine compliance with all applicable Township ordinances and regulations, including zoning, stormwater management, subdivision and land development, and sewers and sewage disposal ordinances and regulations. For purposes of stormwater management, the total horizontal projection area of all ground-mounted and freestanding solar or thermal collectors, including solar photovoltaic cells, panels, and arrays, shall be considered impervious.
- (11) A Transportation Plan that shows all roadways to be utilized to transport equipment and parts for the proposed site during construction, operation, and maintenance of the PSES, and that addresses conditions for repair or replacement if damage to roads occurs during construction, operation, or maintenance activities. The Transportation Plan shall comply with the requirements of Subsection 5.C. (Use of public roads; Bonding) of this Section.
- (12) An Emergency Response Plan for the PSES. The Emergency Response Plan shall include specific details on the emergency equipment that will be kept on-site to respond to a fire or medical or other emergency; initial and ongoing local emergency responder training, drills, and communications plans; measures for responding to various emergencies; and proof that the proposed site is served by an adequate water supply for firefighting purposes. The Emergency Response Plan shall demonstrate compliance with the requirements in subsection 5.D. (Local emergency services) of this Section.
- (13) A Decommissioning Plan, including schedules to remove every element of the PSES except land, dispose of or recycle each element, reclaim all disturbed areas; and proof of financial security. The Decommissioning Plan shall demonstrate compliance with the requirements of Subsection 5.G. (Decommissioning; Performance bond) of this Section.
- (14) Other relevant studies, reports, certifications and approvals as may be provided by the Applicant or reasonably required by the Kingston Township Planning Commission, the Kingston Township Zoning Hearing Board, or the Kingston Township Board of Supervisors, to ensure compliance with all applicable Kingston Township ordinances and regulations.

**B.** An application for a conditional use under this Section shall demonstrate compliance with the following requirements.

**(1)** Design and installation.

- i.** Uniform Construction Code – To the extent applicable, the PSES shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended, and the regulations adopted by the Department of Labor and Industry.
- ii.** Design Safety Certification – The design of the PSES shall conform to all applicable industry standards, including those of the American National Standards Institute (ANSI). The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations.
- iii.** Electrical Components – All electrical components of the PSES, including any inverter, transformer, or battery energy storage system, shall conform to all relevant and applicable local, state and national codes, and relevant and applicable international standards.
- iv.** The one-hour average noise generated from a PSES, including from any inverter, transformer, or battery energy storage system, shall not exceed a noise level of 60 dB(A) when measured at the boundary line of real property owned by a Non-Participating Landowner. An Applicant may submit equipment and component manufacturers' noise ratings to demonstrate compliance. The Applicant may from time to time be required to provide appropriate measurements from a reasonable number of sampled locations at the perimeter of the PSES to demonstrate compliance with this requirement.
- v.** Areas within ten feet on each side of a battery energy storage system shall at all times be kept clear of combustible vegetation and other combustible growth.
- vi.** Lighting; Visual appearance; Glare; Power lines:
  - 1.** The PSES shall not be artificially lighted, except to the extent required for safety and to comply with applicable federal, state, or local requirements. To every extent possible, all required lighting shall be motion-activated, fully shielded, and directed downward so as to minimize negative impacts to adjacent uses.
  - 2.** Solar Panels shall not display advertising, except for reasonable identification of the Panel manufacturer, Owner and Operator.
  - 3.** All on-site utility lines, transmission lines, other wiring, and plumbing shall, to

every extent possible, be placed underground.

4. The Applicant shall, to every extent possible, seek to limit harmful glare to surrounding properties and roadways.

**vii. Screening**

1. A topographic and vegetative buffer shall be located outside of the privacy fencing required in Subsection 5.B.(2)i. of this Section. The purpose of the buffer shall be to mitigate, to every extent possible, the visual impact of the PSES. The buffer shall consist of a landscaping strip at least 15 feet wide along the entire perimeter of the required privacy fencing.
2. The following buffer plantings shall be located throughout the landscaping strip:
  - a. At a minimum, a double-staggered row of evergreen trees planted 15 feet on center. Each evergreen tree shall have foliage that remains green throughout the year, shall be not less than 5 feet in height at installation, and shall be sized to reach a height of 8 feet within 36 months of installation.
  - b. Existing topography and vegetation (plants, shrubs, hedges, and trees) shall be preserved to every extent possible.
  - c. A landscape plan prepared by a Pennsylvania registered landscape architect shall be submitted as part of the land development and or subdivision plan. This plan will become part of the final approved subdivision and or land development plans and will be recorded with the approved plans. This plan shall delineate and identify existing vegetation (plants, shrubs, hedges, and trees), buffer plantings (including sizes at installation), planting areas, landscaping, fencing type, construction, and finishes, as well as paved and lawn areas.
  - d. All vegetation, buffer plantings, planting areas, landscaping, fencing, paved and lawn areas shall be actively maintained throughout the life of the facility per the requirements of this Section and the approved design as delineated in the landscape plan and any recorded plan.
  - e. Additional vegetative screening, trees, hedges, and landscaping may be required at the discretion of the Planning Commission or the Board of Supervisors. Vegetative screening, trees, hedges, and landscaping shall, to every extent possible, minimize the view of privacy fencing from any public road and any real property owned by any Non-Participating Landowner.

**(2) Prevention of unauthorized entry.**

- i.** Privacy fencing of not less than 8 feet and not more than 12 feet in height shall be provided around the perimeter of the PSES in compliance with the National Electrical Code (NEC). Fencing shall be designed to allow small wildlife to forage in and around the site and move freely through or under the fencing while preventing entry by large animals and unauthorized persons.
- ii.** A self-locking gate shall be provided at each access road to prevent entry by unauthorized persons, and shall use a Knox Rapid Access System or similar type of entry for emergency access.
- iii.** All access to substation, battery energy storage system, and other high voltage electrical equipment shall be locked or fenced, as required by applicable safety standards.

**(3) Signs, Warnings.**

- i.** A clearly visible sign shall be posted at each self-locking gate containing the following information; 24-hour emergency contact name and telephone number for the operator of the PSES; 911 emergency address of the PSES; and emergency shutdown procedures.
- ii.** Warning and other safety signage shall comply with all applicable NEC standards and recommended best practices. Privacy fencing shall be clearly marked with warning signs at intervals of not more than 100 feet, and at each entrance.
- iii.** Clearly visible warning and danger signage concerning voltage shall be placed at the base of all pad-mounted transformers, substations, and battery energy storage systems.
- iv.** Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of all guy wires for any gantries or transmission line poles and along all guy wires up to a height of ten (10) feet from the ground.

**(4) Setbacks.**

- i.** The setbacks for all above-ground elements of the PSES, including solar panels or thermal collectors, equipment, and structures, shall be not less than one hundred fifty (150) feet from the boundary line of any real property owned by a Non-Participating Landowner; and not less than forty (40) feet from the nearest right-of way line of any public or private street or right of way.
- ii.** Privacy Fencing, vegetative screening, and landscaping may be constructed or

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

- iii. Upon request, the Zoning Hearing Board may grant waivers or modifications of setback requirements hereunder where the Applicant has shown that literal enforcement will exact undue hardship because of unique physical conditions of the land in question, and provided that such modification will not be contrary to the public interest. When considering such requests, the Zoning Hearing Board may take into consideration the impact of the PSES on the surrounding neighborhood, and also any measures proposed by the Applicant to mitigate those impacts. Notwithstanding the foregoing, in no event shall a waiver or modification of setback requirements hereunder effect a waiver or modification of the noise restriction in subsection 5.(B)(1)iv of this Section.

**(5) Access roads; Interior roads and drive aisles.**

- i. Access to the PSES shall be provided by road from a public street. All Access points shall be secured by a self-locking gate.
- ii. All road and drive aisles interior to the PSES shall be interconnected whenever possible. Where such roads or drive aisles are not interconnected, they shall be terminated with a cul-de-sac, hammerhead or other like design.
- iii. All roads and drive aisles shall be designed to be suitable for heavy loads and to provide adequate access for fire-fighting and other emergency service equipment. All road and drive-aisle dimensions and turning radii shall be sufficient to accommodate the free flow of all such equipment and adequate access in front of, between, and behind buildings and structures.
- iv. All impervious (including surfaced, paved, graveled, compacted, or similarly constructed) roads, drive aisles, cul-de-sacs, hammerheads, and other like designs, shall be kept passable for emergency vehicles at all times, and shall be completely cleared of snow and ice within 8 hours after the end of a rain, snow, sleet, hail, or freezing rain fall.

**C. Use of public roads; Bonding.**

- (1) The Applicant may be required to bond public roadways with PennDOT or Kingston Township or other municipalities in accordance with state and local regulations. In that case, copies of executed bond agreements shall be provided to the Kingston Township Board of Supervisors prior to the commencement of construction. To the extent that roadways are bonded with PennDOT or the Township or other

municipalities, as the case may require, the remainder of this “Subsection C. Use of public roads; Bonding” shall not apply.

- (2) The Township Engineer or other qualified third-party engineer hired by the Township shall document road conditions prior to construction; and shall document road conditions again thirty (30) days after construction is complete or as weather permits.
- (3) Any road damage caused by the Applicant or its contractors shall be repaired promptly or as soon as practical at the Applicant’s expense to a minimum quality of travel at the initial road condition using materials that meet or exceed the specification of the roadway.
- (4) The Applicant shall provide the Township with an executed Maintenance Agreement with the roadway owner to ensure the prompt repair of damaged roads.

**D. Local emergency services.**

- (1) Not less than sixty (60) days before the start of construction of the PSES, the Applicant shall provide a copy of the Emergency Response Plan for the PSES to all local emergency services, including the Kingston Township Police Department, Kingston Township Fire Departments, Emergency Medical Services, County Emergency Management Agency, and 911 Communications for the associated Public Safety Answering Point. The Applicant shall cooperate with police, fire, and other emergency service providers to develop, revise, and coordinate implementation of, the Emergency Response Plan.
- (2) The Applicant shall procure and post a valid 911 Physical Address for the PSES as required by any applicable ordinance and state and federal law.
- (3) The Applicant shall pay all costs and expenses of any kind related to training for police, firefighters, paramedics, emergency medical service workers, and other first responders, that are in any way required by the PSES or the Emergency Response Plan.
- (4) The applicant shall pay all costs and expenses of any kind related to equipment for police, firefighters, paramedics, emergency medical service workers, or other first responders, that is in any way required primarily as a result of the PSES or the Emergency Response Plan.
- (5) Initial training for local emergency responders shall be completed not less than thirty (30) days before the start of construction of the PSES. Ongoing training and drills for local emergency responders shall take place not more than every eighteen (18) months after the start of construction of the PSES.

- E. Signal Interference.** The Applicant shall make every effort to avoid any disruption or loss of radio, telephone, television or similar signals, and shall make every effort to mitigate any such disruption or loss caused by the PSES.
- F. Liability Insurance.** The Owner and the Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$5 million per occurrence and \$10 million in the aggregate. The dollar amounts specified in this paragraph shall be adjusted every five years after the effective date of this ordinance, by the cumulative percentage increase over the immediately preceding five year period in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the Bureau of Labor Statistics, rounded to the nearest multiple of \$100,000.00. Coverage required under this paragraph may be shown by primary and umbrella policies or a corporate group policy, as applicable. Current certificates of insurance shall be provided to the Township Zoning Officer on an ongoing basis.
- G. Decommissioning; Performance bond.**
- (1)** The Owner and Operator shall, at their sole expense, completely decommission the PSES within twelve (12) months after the end of the useful life of the PSES. The Owner and Operator shall notify the Township Zoning Officer immediately upon permanent cessation or abandonment of the PSES, or whenever the PSES generates no electricity for commercial production for a continuous period of three (3) months. The PSES shall be presumed to be at the end of its useful life and decommissioning shall commence immediately if no electricity is generated for commercial production and distribution for a continuous period of twelve (12) months.
  - (2)** Decommissioning shall include removal of every surface and subsurface element of the PSES except land; and reclamation of land.
    - a.** Removal of surface and subsurface elements shall include removal of gravel, other similar surfacing materials, foundations, and all underground materials and equipment. To the extent possible all materials and equipment removed from the PSES shall be salvaged. Materials and equipment that cannot be salvaged shall be disposed of at a facility authorized to dispose of such as required by state or federal law.
    - b.** To the extent possible, land reclamation shall restore the original landform or create a landform that approximates and blends in with the surrounding landform. Reclamation shall commence as soon as possible, and shall include salvaging and reusing all available topsoil in a timely manner, revegetating disturbed areas with native species, controlling erosion, controlling invasive non-native plants and noxious weeds, and monitoring results to ensure successful reclamation. Reclamation will be judged successful when a self-sustaining, vigorous, diverse,

native plant community is established on the site, with a density sufficient to control erosion and non-native plant invasion and to re-establish wildlife habitat or forage production. Erosion control generally is sufficient when adequate groundcover is reestablished, water naturally infiltrates into the soil, and gullyng, headcutting, slumping, and deep or excessive rilling is not observed. The site must be free of non-native plants and noxious weeds, contaminated soil, debris, and materials and equipment. When reclamation requirements have been met, the Owner or Operator shall inform the Township Zoning Officer that reclamation has been completed and that the site is ready for final inspection.

- c. Roads and drive aisles, stormwater management facilities, sewage and sewage disposal facilities, privacy fencing, and vegetative screening and landscaping may be left in place if requested or agreed to in a writing signed by the Landowner.

**(3) Performance bond.**

- a. Prior to any PSES construction, the Owner or Operator shall furnish to the Township a performance bond to guarantee the decommissioning of the PSES in accordance with the requirements of this Section. Such bond shall be in favor of the Township, and shall be in an amount equal to one hundred and ten percent (110%) of the Decommissioning Cost Estimate as defined and determined in this Section.
- b. To determine the amount of the bond, the Owner or Operator shall retain an independent and certified professional engineer to provide estimates of the total cost of decommissioning the PSES without regard to the value of materials and equipment salvaged from the PSES (“Estimated Gross Decommissioning Costs”); the salvage value of all such materials and equipment (“Estimated Salvage Value”); and the Decommissioning Cost Estimate, which shall be defined and determined as follows: Estimated Gross Decommissioning Costs minus 90% of Estimated Salvage Value equals Decommissioning Cost Estimate.
- c. An updated Decommissioning Cost Estimate shall be submitted to the Board of Supervisors after the first year of operation and every fifth year thereafter. Upon approval from the Township Engineer, the bond shall be updated to reflect one hundred and ten percent (110%) of the approved amount.
- d. The bond shall be executed by one or more surety companies legally authorized to do business in the Commonwealth of Pennsylvania; shall be subject to the approval of the Township; and shall contain the following endorsement: "This bond may not be canceled or allowed to lapse until 60 days after actual receipt by the Kingston Township Manager, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- e. If the Owner or Operator fails to complete decommissioning within the period

prescribed by this Section, the Landowner shall complete decommissioning of the PSES within eighteen (18) months after the end of the useful life of the PSES. The bond shall be structured to allow the Township to draw on the financial security to reimburse the Landowner for decommissioning costs upon the request of the Landowner and submission of proof of costs in a form satisfactory to the Board of Supervisors.

- f.** If neither the Owner or Operator nor the Landowner complete decommissioning within the periods prescribed by this Section, the Township may take such measures as the Township, in its sole and absolute discretion, deems necessary to complete decommissioning.
- g.** The Township shall release the bond when the Owner or Operator has demonstrated, and the Board of Supervisors concurs, that decommissioning (including land reclamation) has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.

- (4)** In the event of sale or transfer of the PSES, every successor Owner and every successor Operator shall adhere to the original monetary and operational decommissioning requirements set forth for the original Owner and Operator.

#### **H.** Public inquiries and complaints.

- (1)** The Owner and Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the PSES.
- (2)** The Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints.

#### **6.** Compliance; Inspections.

- A.** A conditional use permit under this Section shall be predicated and conditioned upon the proposed development or use complying with all requirements of this Section, other applicable requirements of this Chapter, Chapter 22, Subdivision and Land Development, and all other applicable ordinances and state and federal laws. The violation of any condition of approval shall be considered a violation of this Section.
- B.** Kingston Township reserves the right to inspect a PSES at any time if any part of the PSES appears inoperative or appears to constitute a danger to life or property. Twenty-four hour advance notice shall be provided to the Operator except in the case of an emergency.

**7. Enforcement; Recovery of administrative costs and fees.**

- A.** It shall be unlawful for any person to violate, or fail to comply with, or take any action which is contrary to the terms of this Section. If the Township determines that a violation has occurred, a notice of violation shall be issued in accordance with the laws specified by the Township and the Commonwealth of Pennsylvania.
- B.** Any person who or which shall violate or permit to be violated the provisions of this Section shall, upon being found liable therefore in a civil enforcement proceeding brought by Kingston Township before a District Magistrate, pay a fine of not more than six hundred (\$600.00) dollars, plus all court costs, including reasonable attorney fees incurred by the 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 shall further 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.
- C.** To the extent permitted by law, the Township shall be entitled to recover from any Applicant, Owner, Operator, or Landowner all of the Township's costs and fees arising out of or in any way related to the application, administration, or enforcement of any provision of this Section. Such costs and fees may include but not be limited to those for any and all studies, reports, consultant fees, certifications, approvals, inspections, and engineer and other technical expert reviews (including updated decommissioning cost estimates) as may reasonably be necessary to review any application under, or administer any provision of, this Section, to ensure compliance with all Kingston Township ordinances and regulations, to remedy violations of this Section, or to abate nuisances. Such costs and fees may include but not be limited to fees set forth in the Township Schedule of Fees Costs and fees may be collected as a Municipal Claim under applicable law against the property upon which the PSES, or portions thereof, is located.

**8. General provisions; Effective date.**

- A. Repealer.** All ordinances or parts of ordinances which are inconsistent with this ordinance are repealed to the extent necessary to give effect to the provisions of this ordinance.
- B. Savings Clause.** In all other respects, the Kingston Township Code shall remain as previously enacted and ordained.
- C. Severability.** The provisions of this ordinance are declared to be severable. If any section, subsection, sentence, clause, or part thereof of this ordinance is held by a Court of

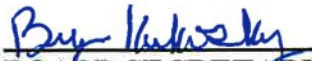
competent jurisdiction to be unconstitutional, illegal, invalid, or contrary to any provision of state or federal law, that section, subsection, sentence, clause, or part thereof shall not affect the validity of the remaining provisions of this ordinance. It is hereby declared the intent of the governing body to have enacted this ordinance as if such unconstitutional, illegal, or invalid section, subsection, sentence, clause, or part thereof had not been included therein.

D. Effective Date. This ordinance shall take effect according to law.

**ADOPTED, ORDAINED, AND ENACTED** at a regular meeting of the Kingston Township Board of Supervisors held on the *8th* day of *October*, 2025.

ATTEST:

**KINGSTON TOWNSHIP**

  
\_\_\_\_\_  
**BOARD SECRETARY  
TOWNSHIP CLERK**

By:   
\_\_\_\_\_  
**CHAIRMAN,  
BOARD OF SUPERVISORS**

