

**POCONO TOWNSHIP ZONING ORDINANCE, ZONING MAP, SALDO
AMENDMENTS**

MEETING #12 AGENDA

March 25, 2024 - 6:00pm

Pocono Township Municipal Building

- ⇒ **Review Draft #2 of Natural Resource Protection Standards**

- ⇒ **Review Draft #1 of Principal Solar Energy Facilities Overlay District Map and Text**

- ⇒ **Confirm Next Meeting Date – April 22, 2024**

NOTE: See attached definitions.
Proposed definitions for natural
resource terms are in bold font.

ARTICLE XI
Natural Resource Protection Standards

§ 470-147. Purpose.

The following natural resource protection standards are established to promote public health, safety, and welfare by minimizing adverse impacts to the environmental and the plants, animals, and humans that live within it. These standards are intended to meet the following specific purposes:

- A. Promote and implement the PA Municipalities Planning Code providing for the protection and preservation of natural resources through Zoning Ordinances.
- B. Promote and implement the goals and policies of the Township Comprehensive Plan related to protection of open space and natural resources.
- C. Identify and protect environmentally sensitive resources including floodplains, steep slopes, woodlands, water bodies (such as ponds and lakes), watercourses (such as streams and rivers), riparian buffers, wetlands, wetland buffers, and habitats of rare, threatened, and endangered species.
- D. Protect the Township's exceptional value and high quality watersheds and water resources, including potable water supply and quality, by protecting the environmentally sensitive resources listed above.
- E. Reduce adverse financial impacts to the community that may result from degradation of natural resources.
- F. Capitalize on financial benefits derived from the natural infrastructure functions that natural resources provide, such as stormwater management, filtration of contaminants, and flood control.
- G. Preserve the natural and scenic resources and landscapes that are integral to the Township's tourism economy and its rural character.

§ 470-148. General provisions.

- A. It shall be a violation of this Chapter to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review, and approval by the Township of applications for zoning or building permits; subdivision or land development plans; conditional use or special exception approvals; zoning variances; timber harvesting plans; or any other applicable permit or approval required by the Township that would involve disturbance of natural resources protected in this Article.
- B. In the event that two or more natural resources identified in this Article overlap, the resource with the most restrictive standard (the least amount of permitted disturbance, or the greatest buffer distance) shall apply to the area of overlap.
- C. Where disturbance of a natural resource is permitted, it shall not take place until it has been determined by the Township Engineer or another professional designated by the Township that such disturbance is consistent with the provisions of this Article and other applicable Township ordinance provisions or federal or state

regulations.

- D. Except as preempted by specific acts, in the event that the provisions of this Article and the provisions of other applicable Township standards or federal or state regulations are in conflict, the more restrictive provisions shall apply.
- E. Restrictions to the disturbance of resources shall apply before, during, and after construction on a site.
- F. Plan information required by this Article shall be verified as correct by the Township Engineer or other qualified professional as determined by the Township.

§ 470-149. Floodplain protection standards.

- A. Areas identified as floodplains shall not be altered, regraded, filled, or built upon except in conformance with Chapter 205 of the Pocono Township Code.

§ 470-150. Steep slopes.

- A. The following standards shall apply to steep slopes:

- (1) Categories and measurement of slopes.

- (a) For the purposes of this chapter, steep slopes are divided into two categories:

- [1] Moderately steep slopes, as defined in Article II.

- [2] Very steep slopes, as defined in Article II.

- (b) Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purpose of application of these regulations, slope shall be measured over three or more two-foot contour intervals (six cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania.

- (2) Protection standards.

- (a) Limits of Disturbance. Steep slope areas, ~~whether natural or~~ excluding man-made slopes, shall be preserved in their original state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary. In no case shall disturbance exceed the following permitted limits:

- [1] Moderately steep slopes. No more than 25% of moderately steep slopes shall be regraded, removed, cleared, built upon, or otherwise altered or disturbed.

- [2] Very steep slopes. No more than 10% of very steep slopes shall be regraded, removed, cleared, built upon, or otherwise altered or disturbed. In addition, the disturbance permitted on very steep slopes shall be limited to the following activities:

- [a] Grading for the minimum portion of a road or driveway necessary to access the principal use of the property and sewer, water, and other utility lines, when it can be demonstrated that no other routing is feasible.
 - [b] Timber harvesting, when conducted in compliance with the required timber harvesting plan. Clear-cutting or grubbing of trees is prohibited on very steep slopes.
- (b) Construction on Steep Slopes. Each building or structure shall be constructed in such a manner as to provide the least necessary alteration of the existing grade, vegetation, and existing soils. Excessive cut-and-fill shall be avoided.
 - (c) Roads. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible and strive for compatibility with the character of rural roads
 - (d) Cut-and-Fill Slopes. Finished slopes of permitted cut-and-fill areas shall not exceed 33% slope unless the applicant can demonstrate to the satisfaction of the Township Engineer the method by which steeper slopes can be adequately stabilized and maintained.
 - (e) Steep Slope Disturbance. Any disturbed area of very steep slopes, or any cut-and fill-resulting in slopes of greater than 25%, shall be protected with an erosion control blanket. All stockpiles of earth intended to be stored for more than 21 days shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer or the Monroe County Conservation District.
 - (f) Erosion and Sedimentation Control. Any disturbance of land shall be in compliance with Pennsylvania Department of Environmental Protection, Title 25, Chapter 102. In addition, any land disturbance shall conform to the following Township Ordinances: Grading Erosion and Sedimentation Control, Chapter 220, as amended; Stormwater Management, Chapter 365, as amended; and, Subdivision and Land Development, Chapter 390, as amended. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of the Pocono Township ordinances to demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.
 - (g) Submission of Plans. Where the following information has not been previously submitted as part of a subdivision or land development plan application, such information shall be submitted to the Township with a building or zoning permit, or a conditional use, special exception, or other application, when applicable:
 - [1] Delineation of areas of moderately steep slope and very steep slope which are on the site.
 - [2] The erosion and sedimentation control and soil stabilization plans described in § 479-150A(2)(f), above.

- [3] A grading plan that shall identify the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures.
- [4] For slopes of greater than 25%, an architectural plan, including materials and type of foundation to be used to overcome structural problems associated with slope conditions.

§ 470-151. Watercourses, lakes, ponds and wetlands.

A. Watercourses.

- (1) Watercourses shall be preserved in their natural state. The following special regulations shall apply to watercourses:
 - (a) No disturbance of a watercourse shall be permitted except for activities waived or permitted under Pennsylvania DEP regulations.
 - (b) Any project impacting a watercourse that requires an individual permit from the US Army Corps of Engineers or a joint permit from the US Army Corps of Engineers and the Pennsylvania Department of Environmental Protection shall require a special exception approval in accordance with this chapter.

B. Riparian buffers.

- (1) The riparian buffer shall be designated as:
 - (a) An area that begins at each edge of any watercourse and extends a minimum of 150 feet landward on each side of the watercourse. The width of the buffer shall be measured horizontally on a line perpendicular to the nearest edge of the watercourse at bankfull flow, as reviewed and approved by the Township engineer.
- (2) The area within the riparian buffer shall not be regraded, filled, cleared, built upon, or otherwise altered or disturbed, with the exception of the following:
 - (a) Earth disturbance of less than 5,000 square feet or 1,000 square feet of impervious cover on an existing lot of record as of the date of enactment of this ordinance, provided it is not related to a subdivision or land development application.
 - (b) Regulated activities permitted by the Commonwealth, Army Corps of Engineers, or other Federal agency (such as a permitted stream or wetland crossing);
 - (c) Provision for unpaved trail and trail access;
 - (d) Provision for fishing access to a watercourse, including fishing access, boat launches, and crossings for agricultural and restoration equipment, not to exceed 20 feet in width, limited to one access per tract or two miles of stream frontage.
 - (e) Selective removal of hazardous or invasive vegetative species;

- (f) Vegetation management in accordance with an approved landscape plan or open space management plan;
 - (g) A soil conservation project approved by the Monroe County Conservation District; or,
 - (h) Removal of hazardous material or septic system, junk material, or a diseased tree.
- (3) The following activities and practices are expressly prohibited in riparian buffer areas:
- (a) Removal or disturbance of vegetation except as permitted in § 470-151B(2) above.
 - (b) Storage or discharge of any hazardous or noxious materials, except those used during emergencies for the treatment and/or maintenance of any public sewer and public water treatment facilities.
 - (c) Use of fertilizers, pesticides, herbicides, and/or other chemicals, except:
 - [1] Where permitted by a valid conservation plan, forest stewardship plan, or approved planting and maintenance plan.
 - [2] For selective herbicide application by a qualified professional to control noxious weeds and invasive species of plants in riparian buffers.
 - (d) Storage or operation of motorized vehicles, except for maintenance of emergency use approved by the Township and except as permitted on roads, paths, or trails designated for use by motorized vehicles.
- (4) If currently wooded, the riparian buffer shall be maintained as woodlands. In places where the riparian buffer is not wooded, and until such buffers have become wooded, the buffer shall be maintained as a filter strip of dense grass and forbs no less than one (1) foot high or other methods to provide sediment filtering, and nutrient uptake, as well as to convert concentrated flow to uniform, shallow sheet flow.
- (5) When a subdivision or land development is proposed where there is no existing vegetated or wooded buffer, a 150 foot vegetated riparian buffer shall be required in accordance with the following guidelines:
- (a) Forest or other suitable vegetation shall be promoted through natural succession. Selective planting shall also be incorporated on sites devoid of vegetation to stimulate native species and discourage invasive species.
 - (b) Plant selection, planting, and on-going maintenance shall be planned by a registered landscape architect under the guidance of a licensed ecologist, the USDA, the Monroe County Conservation District, the Pennsylvania Department of Environmental Protection, or the Pennsylvania Department of Conservation and Natural Resources.
- (6) All riparian buffers created by a new subdivision shall be maintained through a

declaration of protective covenant, which is required to be submitted for approval by the Township. The covenant shall be recorded in the land records and shall run with the land and continue in perpetuity. Management and maintenance requirement information shall be included in the covenant.

C. Wetlands, lakes and ponds.

- (1) The following wetland protection standards shall also apply to lakes and ponds:
 - (a) Wetland disturbance. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed except where state or federal permits have been obtained.
 - (b) Coordination with state and federal agencies. Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. Any applicant who is contacted by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers shall provide to the Township a copy of such correspondence within five (5) working days of receipt.
 - (c) Wetlands delineation. The applicant shall provide to the Township a wetlands delineation report (or a letter verifying that no wetlands are presented based on a field view) that that meets the following requirements:
 - [1] The report shall be conducted by a qualified wetland biologist, soil scientist, or an environmental professional with demonstrated qualifications, who shall certify that the methods used adhere to the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the report shall be acceptable to the municipal engineer or other qualified consultant hired by the Township.
 - [2] The report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present. If there is a question as to the accuracy of the wetland delineation report, the Township may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense.
 - [3] If no wetlands are found on the site, a note shall be added to the preliminary and final plans stating that "This site has been examined by (name and address with a statement of submitted qualifications), and no wetlands as defined by the U.S. Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, were found to exist."

D. Wetland, lake, and pond buffers.

- (1) The following buffer standards shall also apply to wetlands lakes and ponds:
 - (a) The buffer shall extend a minimum of 150 feet landwards from the outer limits of the wetland boundary, or lake or pond shoreline, as applicable.
 - (b) There shall be no earth disturbance within the wetland, lake, or pond buffer with the exception of the following:
 - [1] Earth disturbance of less than 5,000 square feet or 1,000 square feet of impervious cover on an existing lot of record as of the date of enactment of this ordinance, provided it is not related to a subdivision or land development application.
 - [2] Regulated activities permitted by the Commonwealth, Army Corps of Engineers, or other Federal agency (such as a permitted stream or wetland crossing);
 - [3] Provision for unpaved trail and trail access;
 - [4] Provision for access to lake, pond, or wetland, not to exceed 20 feet in width, limited to one access per tract.
 - [5] Selective removal of hazardous or invasive alien vegetative species;
 - [6] Vegetation management in accordance with an approved landscape plan or open space management plan;
 - [7] A soil conservation project approved by the Monroe County Conservation District; or,
 - [8] Removal of hazardous material or septic system, junk material, or a diseased tree.
 - (c) All Department of Environmental Protection regulations under Chapter 105 concerning activities in wetlands margins shall be met.

E. Setbacks for potential water pollution hazards.

- (1) The following land uses and/or activities are designated as potential water pollution hazards and shall be set back a minimum of 300 feet from any watercourse, wetland, lake, or pond. Where more restrictive, the requirements of the Pocono Township Floodplain ordinance shall apply.
 - (a) Above or below ground storage of hazardous substances
 - (b) Above or below ground petroleum storage facilities
 - (c) Drainfields from on-site sewage disposal and treatment systems
 - (d) Solid waste landfills or junkyards
 - (e) Confined animal feedlot operations
 - (f) Subsurface discharges from a wastewater treatment plant

§ 470-152. Woodlands, specimen vegetation, and heritage trees. Move to SALDO**A. Specimen vegetation and heritage trees.**

- (1) Specimen vegetation and heritage trees shall not be removed from any lot or tract except where the landowner demonstrates to the satisfaction of the Board of Commissioners that such removal is essential to eliminate a hazardous condition(s). In consideration of any need for removal, the Township may engage the services of an arborist, reasonable costs therefore to be borne by the landowner. Where permitted, removal of specimen vegetation and heritage trees shall be minimized.
 - (a) To the minimum extent necessary to enable retention of specimen vegetation and heritage trees while providing for lawful use, modification to otherwise applicable area and bulk requirements may be approved by the Board of Commissioners as part of any applicable subdivision or land development application, or by the Zoning Officer as part of any applicable building permit.
- (2) Where any applicant for building, zoning, subdivision or land development approval establishes conservation restrictions acceptable to the Township which shall result in the conservation of specimen trees or heritage trees, all such trees to be retained shall be credited toward any tree replacement required under § § 470-152C below, at the ratio of four trees credited for each specimen or heritage tree retained.

B. Woodlands.

- (1) Unless undertaken as an approved timber harvesting operation conducted in compliance with the requirements of the Pocono Township Timber Harvesting ordinance the following woodland disturbance limitations shall apply.
 - (a) Critical woodlands: 5%.
 - (b) Non-critical woodlands on residential tracts: 35%.
 - (c) Non-critical woodlands on non-residential tracts: 50%.
 - (d) Disturbance limitations shall be measured based on the extent of the woodland at the time of first submission of applicable application(s) after the adoption of this section, and shall be indicated on applicable plan(s). The extent of any area of woodland disturbance shall be measured to include the entire area within the drip line of any tree where any part of the area within the drip line of said tree is subject to woodland disturbance. Any disturbance limitation shall run with the land. Subsequent applications shall be subject to the initial determination of disturbance limitations, regardless of intervening disturbance which may have occurred. If, at any time within three years prior to an applicable application, there had existed a greater extent of woodland, such greater area shall be utilized to calculate the extent of woodland disturbance and the limitations set forth herein.
- (2) In determining where necessary woodland disturbance shall occur, the following factors shall be considered by the applicant and the Township:
 - (a) The location(s) and benefit(s) of conservation of healthy mature woodland stands.

- (b) The impacts of separating, dividing, or encroaching on wildlife travel corridors or extensive habitat areas, especially woodlands exceeding 10 acres in area.
 - (c) The impacts on any interior forest area; riparian buffer area; steep slope area; rare, threatened, or endangered species habitat area; and scenic views.
 - (d) Disturbance of critical woodlands shall be permitted only when there is no possible alternative disturbance on non-critical woodlands.
 - (e) Each building or structure shall be laid out and constructed in such a manner as to provide the least alteration or disturbance necessary of the existing woodlands and other vegetation. Clear-cutting shall be minimized and trees shall be selectively removed.
 - (f) Remaining undisturbed woodlands and other vegetation shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife.
 - (g) Consideration shall be given to balancing the benefits of woodland preservation with other valuable resources on the site, including scenic views. The Township shall not unreasonably restrict woodland disturbance where limited disturbance may permit siting of buildings in less visually obtrusive areas of the tract.
- (3) Woodland removal for purposes of development pursuant to the requirements of this Section shall not be regulated as timber harvesting, except that the forest practices set forth in the Pocono Township Timber Harvesting ordinance shall apply.
- (4) Woodlands, individual trees, and other vegetation that are to remain on the site shall be identified on the plan and protected in accordance with the following:
- (a) A tree protection zone (TPZ), which is an area radial to the trunk of the tree or to the woodland area to be preserved, shall be established. The TPZ shall extend to the edge of the critical root zone (CRZ) of the woodland area to be protected, or in the case of an individual tree, to the critical root zone of the tree. The critical root zone is the distance from the tree trunk that equals one foot for every one inch of the tree's diameter at breast height (dbh).
 - (b) Prior to construction, trees or woodlands to be preserved that are within 50 feet of any proposed construction, grading, clearing, or related activity shall have their TPZ/CRZ demarcated by minimum 4-foot high, orange construction fencing or approved equivalent. The fencing shall be installed along the outer edge of the delineated TPZ/CRZ, shall be maintained until all construction activities have been completed, and shall be inspected by the Township prior to initial earth disturbance and, thereafter, at its discretion.
 - (c) No earth disturbance, earth compaction, vehicular or foot traffic, construction of proposed improvements or utilities, or other disturbance shall occur within the TPZ/CRZ, and grade changes and excavation

activity shall not encroach upon any area within the TPZ/CRZ.

- (d) Construction materials, equipment, soil and/or debris shall not be stored nor disposed of within the TPZ/CRZ, except for mulched vegetative matter used to prevent soil compaction.
- (e) No toxic materials shall be stored within 100 feet of a TPZ/CRZ, including petroleum-based and derived products. Where the TPZ/CRZ is coincident with a riparian buffer, the more restrictive provisions of §470-151E shall apply.
- (f) Sediment, retention, and detention basins shall not be located within the TPZ/CRZ, nor shall they discharge into the TPZ/CRZ.
- (g) Any trees within 25 feet of a building, or bordering entrances or exits to building sites, shall be protected by a temporary barrier to be maintained in place throughout the duration of construction activity.
- (h) No boards or other material shall be nailed or otherwise attached to any trees during construction.
- (i) Roots shall not be cut within the critical root zone of any trees to remain.
- (j) Tree trunks, limbs, and exposed roots damaged during construction shall be protected from further damage by being treated immediately in accordance with accepted professional landscape procedures.

C. Tree and Woodland Replacement.

- (1) The removal of declining, damaged or diseased trees, or those which present a hazard are exempt from the tree replacement requirement.
- (2) Deciduous replacement trees shall be eight feet minimum height if multi-stem trees. Evergreen replacement trees shall be seven feet minimum height.
- ~~(3) Required replacement tree calculation based on area of woodland or critical woodland disturbance: At a minimum, for each 500 square feet of woodland or critical woodland disturbance area, or fraction thereof, in excess of the applicable limit set forth in this Article, and regardless of the character and sizes of the disturbed vegetation, one tree at least 2-inch caliper shall be planted.~~
- (4) **Replacement tree calculation based on specific tree removal. Replacement of trees removed in excess of the disturbance limits set forth in §470-152.B(1). Regardless of any disturbance allowances, for** For each tree greater than 12 inches dbh to be removed, required replacement trees **also shall be planted and** shall be calculated in accordance with the following schedule:

For Each Tree to be Removed	Minimum Number and Caliper of Replacement Trees
One, 12 to 18 inch dbh	Two, 2 inch dbh
One, 18 to 24 inch dbh	Three, 2 inch dbh

One, 24 to 36 inch dbh	Four, 2 inch dbh
One, greater than 36 inch dbh	Six, 2 inch dbh

- (5) Required replacement shrubs. At a minimum, for each 100 square feet of woodland or critical woodland disturbance area, or fraction thereof, in excess of the applicable standard set forth in this Article, and regardless of the character and sizes of the disturbed vegetation, one shrub at least 24 inches to 30 inches in height shall be planted in addition to any required tree replacement. Shrubs planted in accordance with this requirement may be of restoration quality and not necessarily landscape quality.
- (6) Where replacement trees are required but not suitable for the particular site prescribed due to the size of the site or other limitations, the Board of Commissioners may allow the following as alternative planting mitigation:
 - (a) The required number may be reduced by providing larger sized trees so that the total number of equivalent caliper inches is provided.
 - (b) Some or all of the required replacement plantings may be installed at a site other than that subject to required replacement planting. In such cases and to the extent possible, the plantings should be installed within the same watershed from which they were removed.
 - (c) The applicant may provide a fee to the Township equal to the estimated installed value of the plantings, to be deposited into a special fund established for that purpose. Such fund shall be utilized at the discretion of the Township for the purchase and installation of plantings elsewhere in the Township. Installation of such plantings on private lands shall be dependent upon the establishment of conservation easement(s) or other restriction(s) acceptable to the Township that will reasonably guarantee the permanent protection of such plantings.
- (7) Required replacement plantings shall be in addition to any required street trees or any other landscape material required under the provisions of this chapter or the Pocono Township Subdivision and Land Development ordinance.
- (8) The locations, selected species and sizes of all replacement plantings, along with a planting schedule tied to the timing and/or phasing of the development, shall be indicated on the final subdivision/land development plan(s) or building or zoning permit application, as applicable.
- (9) Required replacement vegetation and their measurement shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock", ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown.
- (10) Because of the many benefits of native plants (ease of maintenance,

longevity, wildlife habitat, etc.), the use of nursery-grown free-fruiting native trees and shrubs is strongly encouraged. Species selection should reflect species diversity characteristic of the native deciduous woodland.

- (11) Species of replacement plantings selected and planting locations shall reflect careful site evaluation and, in particular, the following considerations:
- (a) Existing and proposed site conditions and their suitability for the plant materials, based upon the site's geology, hydrology, soils and microclimate.
 - (b) Specific functional and design objectives of the plantings, which may include, but not necessarily be limited to: replacement of woodland area removed, enhancement of existing woodland or oldfield area(s), reforestation of impacted riparian buffer areas, mitigation of new woodland edge conditions as a result of land disturbance, provision for landscape buffer, visual screening, noise abatement, energy conservation, wildlife habitats and aesthetic values.
 - (c) Maintenance considerations, such as hardiness, resistance to insects and disease, longevity and availability.
- (12) All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least 18 months. If a replacement planting dies or is dying within the guarantee period, the landowner shall replace the dead or dying planting. In addition, the applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the proposed vegetation during the 18 month replacement period, and to provide for the removal and replacement of vegetation damaged during construction, based upon the recommendation of the Township Engineer.

D. Invasive species.

- (1) Invasive species shall not be planted under any circumstances for any Township permitted activity, and where present their eradication or management should be implemented to the maximum extent possible.

§ 470-153. Timber harvesting.

- A. Timber harvesting shall comply with the Pocono Township Timber Harvesting ordinance.

§ 470-154. Rare, threatened, or endangered species.

- A. With the exception of selective removal of hazardous or invasive vegetation, no rare, threatened, or endangered species site shall be regraded, filled, built upon, or otherwise altered or disturbed.
- B. A buffer area ~~with a minimum dimension of 50 feet~~ as required by federal or state regulations shall be provided around the entire perimeter of any rare, threatened, or endangered species site within which no earth disturbance shall be permitted.

- C. To the minimum extent necessary to avoid disturbance to rare, threatened, or endangered species site(s) or to provide for required buffer(s), while providing for lawful use, modification to otherwise applicable area and bulk requirements may be approved by the Board of Commissioners as part of any applicable subdivision or land development application, or by the Zoning Officer as part of any applicable building permit.

§ 470-155. ~~Application of natural resource protection standards.~~ Plan information and continued protection of natural resources.

- A. Plan information and delineation of protected natural resources. To ensure compliance with the natural resource protection standards of this article, the following information shall be submitted by the applicant when applying for a zoning or building permit, conditional use or special exception approval, zoning variance, or subdivision and land development approval where land disturbance is contemplated. In those cases where only a limited portion of the site or tract will be subject to disturbance, the Board of Commissioners, based upon a recommendation from either the Zoning Officer or the Township Engineer, may allow a smaller area of land to be shown on the plan that will adequately demonstrate compliance with the natural resource protection standards of this section. Where less than the entire site is to be shown on the plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the plan information.
 - (1) A site plan which identifies the limits of each of the natural resources on the site, any applicable buffer areas, and ~~including~~ areas of woodlands, critical woodlands, or other vegetation to be preserved, and the proposed use of the site including any existing or proposed structures.
 - (2) The limits of all encroachments and disturbances necessary to establish the proposed use on the site, including a grading plan showing existing and proposed contours.
 - (3) Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations shall be shown on the plan as indicated in the following table. The figures in Column D (Proposed Disturbance) shall be less than or equal to the corresponding figures in Column C (Maximum Amount of Permitted Disturbance) for each protected resource.

Protected Resource	Column A Amount of Land in Protected Resource (square feet)	Column B Maximum Disturbance Allowance* (percent)	Column C Maximum Amount of Permitted Disturbance (square feet)	Column D Proposed Disturbance of Resource (square feet)
Floodplain		0%		
Steep Slopes:				
Moderately		25%		
Very Steep		10%		
Wetlands, Lakes, Ponds		0%		
Wetland buffers		0%		
Riparian Buffers		0%		

Woodlands:				
Critical		5%		
Non-critical, residential		35%		
Non-critical, nonresidential		50%		
Rare, threatened, endangered species site		0%		
Total				

* Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Township.

- B. Continued protection of identified natural resources. To ensure the continued protection of identified natural resources, the following requirements shall apply:
- (1) Protected natural resource areas on individual lots.
 - (a) For natural resource areas protected under the terms of this section located on individual lots, deed restrictions, conservation easements, or other permanent mechanisms acceptable to the Township shall be recorded for each lot that has such natural resource areas within its boundaries.
 - (b) The mechanism(s) approved by the Township for permanent protection of natural resources shall clearly state that the maintenance responsibility lies with the individual property owner and shall provide for the continuance of natural resource protection in accordance with the provisions of this chapter.
 - (2) Protected natural resource areas held in common.
 - (a) For protected natural resource areas held in common, the open space maintenance provisions and ownership options of § ____, shall apply.
 - (b) The party or organization responsible for the maintenance of the natural area(s) shall be clearly identified in the deed. The restrictions shall provide for the continuance of the protected natural resource areas in accordance with the provisions of this chapter. In addition, restrictions on protected areas shall be included in the development's declaration of covenants, easements, or restrictions or similar documents regulating the use of property and setting forth methods for maintaining open space. A copy of such documents shall be provided to the Township.
 - (3) Changes to approved plans. All applicable plans and deeds shall include the following wording: "Any structures, infrastructure, utilities, sewage disposal systems, or other proposed earth disturbance indicated on the approved final plan shall only occur at the locations shown on the plan. Changes to such locations shall be subject to additional review and re-approval in accordance with the natural resource protection standards of Article XI of Chapter 470, Zoning, of the Pocono Township Code."

§ 470-156. **Modifications to Natural Resource Protection Standards.**

- A. For any use or activity subject to Subdivision or Land Development review, as part of applicable Plan submission, modification(s) may be requested to the provisions of § 470-150.A(2), § 470-151.B and D, § 470-152, and § 470-154 of this Article. Requested modification(s) may be granted at the discretion of the Board of Commissioners pursuant to the provisions of the Subdivision and Land Development Ordinance.
- B. For any use or activity not subject to Subdivision or Land Development review, but subject to application for approval of a Conditional Use, Special Exception, or Zoning Variance under the provisions of this Ordinance, the applicant may request modification(s) to the provisions of § 470-150.A(2), § 470-151.B and D, § 470-152, and §470-154 of this Article.
- C. For any use or activity not falling within the scope of subsections A or B, above, the applicant may request modification(s) to the provisions of § 470-150.A(2), § 470-151.B and D, § 470-152, and § 470-154 of this Article in the form of an application for grant of a Special Exception by the Zoning Hearing Board. Such applications shall be submitted to the Planning Commission and Board of Commissioners for review and comment prior to formal Special Exception application to the Zoning Hearing Board.
- D. Applicants shall provide appropriate documentation in support of their modification request, and the Board of Commissioners or Zoning Hearing Board (as applicable) may request additional documentation of an applicant, or of its municipal consultants, to help reach its decision
- E. In consideration of approval of any applicant request for modification(s) under this Article, the following standards shall serve as the basis for a decision:
- (1) That there are unique physical circumstances or conditions, including but not limited to irregularity, narrowness, or shallowness of lot size or shape, excessive frontage along a water body, or watercourse, presence of existing buildings or structures, or exceptional topographical or other physical conditions peculiar to the particular property. That because of such physical circumstances or conditions, it is impracticable for the property to be developed in strict conformity with the standards of this Article and that the approval of the modification is therefore necessary to enable the reasonable use of the property under base zoning provisions.
 - (2) That the modification, if approved, will result in the minimum disturbance of the natural feature as needed to provide for the lawful intended use.

PRINCIPAL SOLAR ENERGY FACILITY OVERLAY DISTRICT

Regulated as an overlay district

§ 470-22.2. General PSEF Principal Solar Energy Facility Overlay District

- A. Intent. To provide for the construction, installation, operation and decommissioning of principal solar energy facilities in Pocono Township, subject to reasonable conditions that will protect the public health, safety, and welfare.
- B. Applicability.
- (1) This §470-22.2 applies to any principal solar energy facility proposed to be constructed, installed, operated, or decommissioned after the effective date of this ordinance.
 - (2) Any upgrade, modification, or structural change that materially alters the size or placement of an existing PSEF or its solar energy system(s) shall comply with the provisions of this §470-22.2.
 - (3) For any lot or property, or portion thereof, within the Principal Solar Energy Facility Overlay District, the regulations of said overlay district shall supersede any regulations of the underlying district which are in conflict with those of this §470-22.2. The area and boundary of the PSEF Overlay District is designated on the Official Zoning Map of Pocono Township, as may be amended.
- C. Use Regulations.
- (1) A principal solar energy facility (PSEF) shall only be located in the Principal Solar Energy Facility Overlay District and shall only be permitted in said overlay district as a conditional use in accordance with §470-130 of this chapter, as may be amended. A PSEF shall also meet the requirements of the Pocono Township Subdivision and Land Development Ordinance, as may be amended, including, but not limited to, land development requirements. In addition to the requirements set forth in §470-130, the PSEF owner and/or applicant shall provide the following as part of their conditional use application:
 - (a) A descriptive site plan including, but not limited to, dimensioned setbacks, locations of property lines, roadways and driveways, location and size of solar panels, modules and/ or arrays, elevations and heights of buildings and structures, location and detail of perimeter fencing, and buffer and landscaping requirements. The site plan shall incorporate a fire protection plan, including, but not limited to, location of hydrants and other on-site and off-site firefighting equipment, and a narrative of same shall be provided to the Township and Pocono Township Fire Chief for their review and comment.
 - (b) Evidence that the electric utility company has been informed of the owner's and/or operator's intent to install such facility and its intended connection to the utility grid. A copy of the electric utility company's approval to connect to the utility grid shall be provided to the Township if secured at time of conditional use application, but

not later than at time of application for zoning permit.

- (c) An affidavit or evidence of agreement between the property owner and PSEF owner and/or operator confirming the PSEF owner and/or operator has permission to apply for the conditional use. Copies of all necessary permits for the construction, installation, operation and decommissioning of the PSEF and its solar energy system(s) shall be provided if secured at time of conditional use application, but not later than at time of application for zoning permit.
 - (d) Copies of all studies, analyses, reports, certificates and approvals required by all agencies shall be provided to the Township if secured at time of conditional use application, but not later than at time of application for zoning permit. At time of conditional use application, the Township shall be provided with: (1) three copies of a Resource Impact and Conservation Analysis conforming to the requirements of §390-25.E of the Subdivision and Land Development Ordinance which shall also include, but not be limited to, impacts, if any, of the project's electromagnetic field(s) [EMF], hazardous materials, wired and wireless communications interference, and "heat island effect" (as described by the U.S. EPA) on adjacent properties; (2) three copies of a Phase I Environmental Assessment of the PSEF site dated not more than one year before the Township's receipt of the conditional use application, and (3) three copies of existing Phase 1, 2 and 3 Environmental Assessments pertaining to the PSEF site, as applicable. Pending and future environmental assessments upon completion shall be provided to the Township. The Township and/or any of its consultants shall be provided with copies of other studies, analyses, and/or reports, as may be reasonable requested, including but, not limited to, the PSEF and its solar energy system design by the PSEF owner's and/or applicant's engineer and traffic impact analysis during construction and decommissioning of the PSEF.
 - (e) Traffic routes in the Township, traffic volumes and delivery times, and truck weights and sizes relative to PSEF construction and solar energy system(s) installation and decommissioning shall be provided as part of the conditional use application. Off-street parking and staging areas for construction-related and delivery vehicles shall be depicted on the conditional use site plan. Township streets shall not be used for parking or staging of construction-related or delivery vehicles during installation and/or decommissioning of the PSEF.
 - (f) Payment in full of applicable conditional use hearing fees. The PSEF owner and/or applicant shall be responsible for payment of fees in excess of hearing fees submitted with the conditional use application prior to issuance of a zoning permit for Township Engineer and/or Solar Energy Consultant fees.
- (2) The following standards, requirements and criteria, without limitation, shall apply to a principal solar energy facility:
- (a) The owner or operator of a PSEF which will be connected to a utility grid shall provide a copy of a current and valid written authorization from the utility company to the Township acknowledging and approving such connection not later than application of a zoning permit.
 - (b) The PSEF and its solar energy system(s), solar related equipment, principal and

accessory buildings and structures, and parking facilities shall be enclosed by perimeter chain-link fencing, and/or other fencing required by state or federal agency, and an access gate(s) at a height between eight and nine feet for the purpose of restricting unauthorized access. Such fencing shall be green poly-coated and shall not include barbed wire or similar product unless otherwise required by a state or federal agency.

- (c) Within 10 feet outside the perimeter fencing stated above, the initial row of two staggered rows of eight-foot tall deer-resistant evergreen trees at initial planting shall be planted with trees in each row spaced at a maximum of 20 feet on center. The staggered rows of evergreens shall provide an immediate visual screen of the PSEF and evergreen tree spacing in each row shall ensure closure between trees at maturity, except at the access gate(s).
- (d) A compacted stone and/or paved perimeter road to serve as a firebreak, of material, depth and width satisfactory to the Township Engineer and Fire Chief, and approved by the Board of Supervisors, shall be located between the perimeter fencing stated above and the solar related equipment, within the applicable front, side and rear yard setbacks for solar related equipment,. An alternative method of providing PSEF perimeter fire protection may be proposed by the PSEF owner and/or operator and may be approved by the Board of Supervisors after recommendations by the Township Engineer and Fire Chief.
- (e) Access roads and parking areas within the PSEF shall be compacted stone and/or of a paved material, depth and width satisfactory to the Township Engineer and approved by the Board of Supervisors.
- (f) The PSEF shall be designed and constructed so that ground leveling is limited to those areas needed for installation of PSEF land development improvements and solar related equipment so that the natural ground contour is preserved to the greatest extent practical. Any earth disturbance shall, at a minimum, require an erosion and sedimentation control plan approved by the Monroe County Conservation District. Such earth disturbances in conjunction with a site alteration or land development shall meet the applicable sections of this chapter, the Subdivision and Land Development Ordinance, and Stormwater Management Ordinance, as may be amended.
- (g) Trees shall be preserved to the maximum extent possible. Every existing tree, eight inches or more in diameter (measured at 4.5 feet off the ground), that is removed shall be replaced on a 1:1 basis with a native tree that has the same maximum height and growth rate of the tree to be removed. The replacement trees at initial planting shall be not less than 2 1/2 inches caliper and/or eight feet in height above ground level. The replacement trees shall grow to be at least 15 feet tall after planting and any trimming, and shall be placed on the PSEF site to maximize stormwater management and/or screening of the PSEF from adjacent properties. Replacement trees and their measurement shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock", ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown.

- (h) The manufacturer's or installer's identification and appropriate warning signage not greater than three square feet each, or the minimum square footage signage allowed by applicable code, state or federal agency, shall be posted on the access gate(s) and/or perimeter fencing as required by applicable regulations. Except as provided herein, a PSEF shall not display signage of any kind, including, but not limited to, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials.
- (i) All on-site utility lines shall be placed underground unless otherwise approved by the Board of Supervisors. The conditional use site plan and land development plan shall clearly depict where all underground and above-ground utility lines are proposed.
- (j) A PSEF shall comply with the following bulk and coverage controls:

Minimum Front, Side and Rear Yard Setback From Nearest Overlay District Boundary Line For Perimeter Fence	50 feet
Minimum Front, Side and Rear Yard Setback From Nearest Overlay District Boundary Line For Solar Panels And Their Mounting Equipment except as provided below	75 feet
Minimum Front, Side and Rear Yard Setback From Nearest Overlay District Boundary Line For Principal and Accessory Buildings and/or Structures (including parking facilities and other structures containing or attached with equipment which cause sound, vibration, and/or emission, including, but not limited to, odor, smoke, vapor, gas, heat, dust, dirt, air pollution of any kind, EMF, wired and wireless communications interference, light or glare ¹) except as otherwise provided herein	150 feet
Maximum Solar Panel Height	15 feet
Maximum Building, Structure and/or Appurtenance Height	15 feet

Maximum Ground Coverage ²	60%
Minimum Lot Area	5 acres

¹In no case shall any sound, vibration, and/or emission of any kind from a PSEF occur beyond the PSEF property lines.

²Maximum ground coverage for the purpose of this Section is defined as the maximum percentage obtained by dividing the total impervious surface area, including the ground floor area of all principal and accessory buildings, and the cumulative surface area of solar panels on the lot, properties or tract by the total area of the lot, properties or tract upon which the buildings and solar panels are located.

- (k) The cumulative surface area of solar panels, regardless of the mounted angle, shall be calculated as part of the overall impervious coverage. Native grasses and/or other native vegetation satisfactory to the Township Engineer, consultant, or licensed landscape architect shall be planted and maintained below and between ground-mounted solar panels, modules and/or arrays, except where access roads are provided, unless other ground cover is required by a state or federal agency or recommended by the Township Engineer, consultant, or licensed landscape architect and approved by the Board of Supervisors. A note on the PSEF land development plan shall detail the type of grass and/or other suitable vegetation below and between ground-mounted solar panels and its maintenance to ensure continuous ground cover, soil stabilization, stormwater infiltration, and minimized risk of a fire hazard.
- (l) Solar panels shall be placed such that concentrated solar radiation (e.g., light, heat, EMF and/or communications interference) or glare shall not be directed onto other properties, roadways or other areas accessible to the public. The PSEF owner and/or operator has the burden of proving that any solar radiation (described above) or glare produced does not adversely impact upon other properties, aircraft, flying species, and/or adjacent uses either through siting or mitigation. The PSEF owner and/or operator shall be responsible to mitigate any adverse solar radiation (described above) or glare impacts, as determined by the Township Engineer or consultant, prior to issuance of a certificate of occupancy and/or after issuance of a certificate of occupancy.
- (m) Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. Acknowledgement of same from the Federal Aviation Administration, or other agency or entity, may be necessary at the discretion of the Board of Supervisors.
- (n) The layout, design, construction, installation and operation of the PSEF and its solar energy system(s) 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), Florida Solar Energy Center (FSEC) or other similar certifying organizations, or more stringent standards required by state and/or federal agencies. All applicable building permits shall be obtained for the PSEF and

its solar energy system(s) per the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, 35 P.S. § 7210.101 et seq., as amended, and applicable regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies; the Township shall be provided with copies of utility provider approvals and compliance with those same policies and any future change in status. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an engineer licensed in the Commonwealth of Pennsylvania. The manufacturer specifications for the key components of the solar energy system(s) shall be submitted as part of the application.

- (o) The PSEF and its solar energy system(s) shall be designed and operated to protect public safety including development and implementation of a plan of operating procedures to prevent public access inside the PSEF, including, but not limited to, security cameras and security lighting shielded to prevent glare and spillover onto adjacent properties. A PSEF Emergency Operations Plan (EOP) shall be provided to the Township, Fire Chief and Township Emergency Management Coordinator prior to issuance of a certificate of occupancy. The EOP shall provide specific instructions for fire protection and handling and disposing of hazardous materials contained in and/or released from solar related equipment. No solar related equipment and/or hazardous materials shall be buried on site or disposed of in violation of local, state or federal regulations.
- (p) A PSEF and its solar energy system(s) shall not be constructed until all applicable building and zoning permits have been issued, all approvals have been secured and security has been provided for the installation of PSEF land development improvements and decommissioning. The construction of a PSEF and its solar energy system(s) shall be completed and fully operational within one calendar year of issuance of a zoning permit. Before any construction can commence on any PSEF and its solar energy system(s), the property owner must acknowledge that they are the responsible party for owning and maintaining the facility and its solar energy system(s). Prior to issuance of a certificate of occupancy and operation of the PSEF, the PSEF owner and/or operator shall provide the Township with copies all applicable regulatory permits and approvals to operate the PSEF.
- (q) The Township shall be notified in writing within 30 days of a change in: (1) PSEF ownership, (2) PSEF operator and/or (3) owner of land upon which the PSEF is located, and the Township shall be provided with contact name(s), address(es), phone number(s) and emergency contact information. The PSEF owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and shall provide this number and name to the Township. The PSEF owner and/or operator shall make timely and reasonable efforts to respond to the public's inquiries and complaints.
- (r) If a PSEF or any of its solar energy system(s) or components are deemed to be a public safety hazard by a Code Enforcement Officer, Building Code Official, Township Engineer or consultant, or state or federal agency, the PSEF owner and/or operator, after written notice by any of the entities stated above, shall be responsible

for making immediate repairs or removal of the condition causing such hazard. If the PSEF owner or operator fails to make immediate repairs or remove said conditions, Pocono Township shall have the option to pursue reasonable hazard mitigation measures at the PSEF owner's expense without further notice to the PSEF owner or operator.

- (s) Decommissioning of a PSEF or any of its solar energy system(s) shall include the following, without limitation:
- (1) If a PSEF or any of its solar energy system(s) have not been in operation for a period of six consecutive months, the PSEF owner or operator shall notify the Township in writing with the reason(s) for inoperability and their intentions to re-establish operations or plans for decommissioning. The PSEF owner or operator is required to notify the Township immediately upon cessation or abandonment of the operation. The PSEF or one or more of its solar energy systems shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of 12 continuous months.
 - (2) The PSEF owner and/or operator shall have six months from cessation or abandonment in which to dismantle and remove the PSEF including all solar related equipment or appurtenances related thereto, including, but not limited to, buildings, cabling, electrical components, roads, foundations and other associated facilities from the property and shall re-vegetate disturbed earth per § _____.
 - (3) Engineer Decommissioning Costs. An independent and certified Pennsylvania professional engineer shall be retained by the PSEF owner or operator to estimate the total cost of decommissioning without regard to salvage value of the PSEF solar related equipment. Said estimates shall be submitted to the Township after the first year of issuance of a certificate of occupancy and every 5th year thereafter.
 - (4) Decommissioning Financial Security. The PSEF owner or operator, prior to the issuance of a zoning permit, shall provide financial security with the Township as payee in an amount approved by the Board of Supervisors, from a company and in a form and content acceptable to the Board of Supervisors, to insure decommissioning and re-vegetation as set forth herein. The security shall remain in place for as long as the PSEF or its solar energy system(s) exist at the site and until restoration of the site is satisfactorily completed. The PSEF owner or operator shall be responsible to have the financial security certificate holder describe the status of the bond or letter of credit in an annual report submitted to the Township. The financial security shall not be subject to revocation, reduction or termination unless and until approved by the Board of Supervisors based upon the Township Engineer's and Solicitor's recommendation that decommissioning and re-vegetation have been satisfactorily completed.
 - (5) Landowner Responsibility. If the PSEF owner or operator or its solar energy system(s) fails to complete decommissioning and re-vegetation within the time period stated herein, then decommissioning and re-vegetation in accordance with this chapter shall become the responsibility of the landowner.

- (6) Township Intervention. If neither the PSEF owner or operator, nor the landowner completes decommissioning and re-vegetation within the prescribed periods, then the Township may take such measures as necessary to complete decommissioning and re-vegetation. The submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning and re-vegetation plan.
- (7) Decommissioning conditions of the zoning permit shall include, but not be limited to:
 - (a) If the PSEF owner or operator ceases operation of the facility or any of its solar energy system(s), or begins, but does not complete, construction of the project, the PSEF owner and/or operator shall restore the site to its condition prior to any disturbance related to the PSEF facility. The site shall be restored to a useful, non-hazardous condition without significant delay, including but not limited to the following:
 - [1] Removal of aboveground and underground equipment, structures and foundations to a depth of at least three feet below grade. Underground equipment, structures and foundations need not be removed if they are at least three feet below grade and do not constitute a hazard or interfere with agricultural use or other resource uses of the land.
 - [2] Restoration of the surface grade and soil after removal of aboveground structures and equipment.
 - [3] Removal of graveled areas and access roads.
 - [4] Revegetation of restored soil areas with native seed mixes and native plant species suitable to the area.
 - [5] For any part of the PSEF project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or buildings in place or regarding restoration of agricultural crops or forest resource land.
 - [6] The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration.
 - [7] The plan must include a schedule for completion of site restoration work.
- (8) Prior to the issuance of a zoning permit, the PSEF owner or applicant 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; or (2) the right to prohibit the development on or growth of any trees or vegetation on such.

- (9) Solar Easements.
- (a) Where a subdivision or land development proposes a PSEF, 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.
 - (b) Any such easements 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:
 - [1] 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 a specified surface or structural design feature may not be obstructed.
 - [2] Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.
 - [3] Enumeration of the terms and conditions, if any, under which the easement may be revised or terminated.
 - [4] Explanation of 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.
 - (c) A PSEF owner and/or operator is responsible to obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s), if determined necessary by said owners and/or operators.
- (10) The PSEF owner and/or operator shall repair, maintain and replace the facility and related solar equipment during the term of the facility's use in a manner consistent with industry standards as needed to keep the facility safe and in good repair and operating condition. Maintenance and cleaning of photovoltaic panels or heliostats shall include chemicals or solvents low in volatile organic compounds and the facility operator shall use recyclable or biodegradable products to the extent possible.
- (11) The following conditions, which may be amended by the Board of Supervisors, shall apply to a PSEF conditional use approval in addition to any other conditions imposed by the Board of Supervisors in their conditional use decision:
- (a) The PSEF applicant, owner and/or operator shall resolve any outstanding comments of the Township Engineer's conditional use and/or land development review letters to the satisfaction of the Board of Supervisors prior to issuance of a certificate of occupancy and operation of the PSEF.

- (b) The PSEF owner and/or operator shall be responsible for repairs to improvements within Township rights-of-way caused by vehicular traffic generated to construct or decommission the PSEF and shall provide adequate security as determined by the Board of Supervisors for such improvement repairs.
- (c) The PSEF applicant, owner and/or operator shall install a Knox-type box on all access gates for emergency access by the Pocono Township Volunteer Fire Department and other emergency responders.
- (d) The PSEF applicant, owner and/or operator shall prepare a "schedule of maintenance" for review and recommendation by the Township Engineer and/or Township Solar Energy Consultant and approval by the Board of Supervisors prior to issuance of a certificate of occupancy and operation of the PSEF. The "schedule of maintenance" shall include, but not be limited to, a detailed description of daily, weekly, monthly, annual and seasonal inspection and maintenance applicable to vegetation, stormwater facilities, solar related equipment and other improvements on the PSEF site.
- (e) Delivery of solar related equipment to the PSEF site and construction activities on the PSEF site shall be limited to 7:00 a.m. through 7:00 p.m. on Mondays through Saturdays, except for emergency repairs which may occur as needed. There shall be no deliveries of solar related equipment and construction activities on the PSEF site on Sundays and holidays, except for emergency repairs which may occur as needed. Deliveries and removal of solar related equipment and truck traffic to and from the PSEF site during construction, operation and/or decommissioning shall be limited to the route(s), days and times approved by the Board of Supervisors.
- (f) Solar related equipment and parts thereto not in active operation on the PSEF site shall be stored in an enclosed building and/or concealed within solid fencing no closer than the one-hundred-fifty-foot setback for principal and accessory buildings and/or structures under Subsection 2(j) above.
- (g) A failure to comply with any condition or requirement herein set forth shall constitute a violation of the said condition or requirement. Each day's continuation of a violation shall constitute a separate violation. All such violations shall be subject to the penalties set forth in §470-127.