

FANNETT TOWNSHIP
ORDINANCE NO. 2 of 2025
WIND ENERGY FACILITIES ORDINANCE

NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors of Fannett Township as follows:

SECTION 1 - FINDINGS.

The Township Supervisors make the following findings with respect to the construction, operation and maintenance of wind energy facilities.

- A) The construction, maintenance and operation of wind energy facilities, which fail to comply with all criteria and regulations set forth in this Ordinance, present tangible and immediate dangers to the public and neighboring landowners in the nature of ejection of projectiles (ice or injured birds), continuous generation of noise during nighttime hours and glare from sunlight continually flashing off of rotating blades.
- B) The construction, maintenance and operation of wind energy facilities presents a danger following the useful life of the wind energy facilities from deteriorating structures if provisions for decommissioning are not made as required by this Ordinance.
- C) The construction, maintenance and operation of wind energy facilities, which fail to comply with all criteria and regulations set forth in this Ordinance, unreasonably interferes with the reasonable use, comfort and enjoyment of property in the vicinity and/or endangers the health, safety and/or welfare of the occupants of the property in the vicinity, and prohibits or denies the property owners and taxpayers the legitimate enjoyment of their reasonable rights and use of their property and rights.
- D) The construction, maintenance and operation of wind energy facilities, which fail to comply with all criteria and regulations set forth in this Ordinance, including, but not limited to, the repetitive noise and glare, visual impacts, flickering reflections and/or shadows, constitute an unreasonable use of property which causes injury, damage, harm, inconvenience, annoyance, and discomfort to the property owners and taxpayers in the legitimate enjoyment of their reasonable rights and use of their property and rights, and constitute a danger to migratory birds and the watershed.
- E) Wind energy facilities shall meet current standards and regulations, if any, of any other agency of the state, federal and local government with the authority to regulate wind energy facilities.

SECTION 2 -ESTABLISHMENT.

The Township Supervisors hereby declare the construction and maintenance of wind energy facilities to constitute a nuisance and offensive business, if not constructed and maintained in accordance with the criteria and regulations set forth in this Ordinance, subject to prohibition under § 1529 of the State Second Class Township Code (53 P.S. § 66529) and provide for then-regulation and permitting under the conditions set forth below in order to avoid the maintenance of nuisance or offensive businesses within the geographic limits of the township.

SECTION 3 -- DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FACILITY OWNER – the entity or entities having a legal or equitable interest in the Wind Energy Facility, including the respective successors and assigns.

FLICKER – a repeating cycle of changing light intensity.

GROUND CLEARANCE – the minimum distance between the ground and any part of the wind turbine blade, as measured from the lowest point of the arc of the blades.

HUB HEIGHT – the distance measured from the surface of the tower foundation to the highest point of the wind turbine hub, to which the blade is attached.

METEOROLOGICAL TOWER - a tower used for the measurement of wind speed.

NON-PARTICIPATING LANDOWNERS – any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

OCCUPIED BUILDING – a residence, school, hospital, church, public library, commercial building or other building used for public gathering that is in use when the permit application is submitted.

OPERATOR – the entity responsible for the day-to-day operation and maintenance of the wind energy facility.

PARTICIPATING LANDOWNER – a landowner upon whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

ROTOR – that portion of the wind turbine, i.e. blades and associated hub and shaft, which is intended to be moved or activated by the wind.

SHADOW FLICKER – alternating changes in light intensity caused by a moving wind rotor blade casting shadows on the ground and stationary objects.

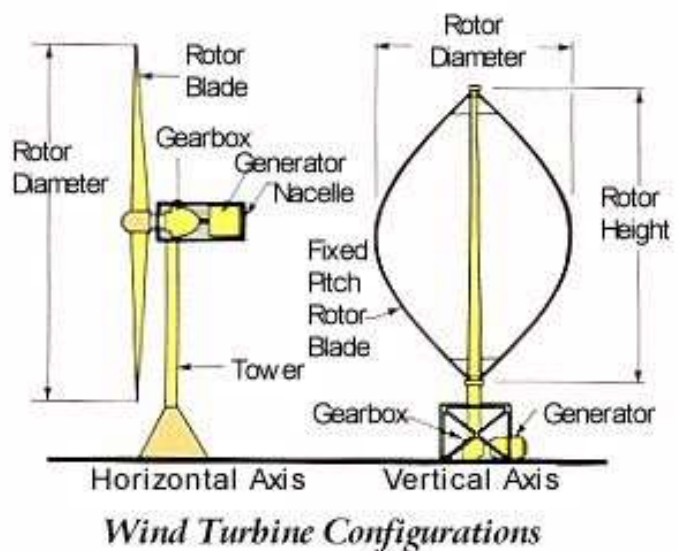
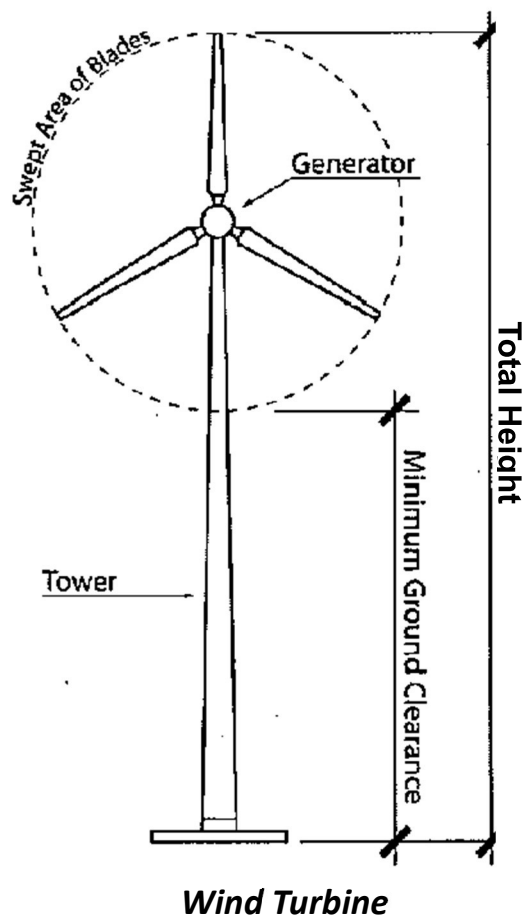
TOTAL HEIGHT – when referring to a wind turbine, the distance measured from the surface of the tower foundation to the highest point of a wind rotor blade when the blade is positioned at 90 degrees to the surface of the ground.

TOWER – the supporting structure of a wind turbine on which a rotor and accessory equipment are mounted. The basic types of towers include self-supporting (free standing) or guyed.

WIND ENERGY FACILITY – an electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmissions lines and other appurtenant structures and facilities.

1. **ACCESSORY WIND ENERGY FACILITY** - a system designed as a secondary use on a lot, wherein the power generated is used primarily for on-site consumption.
2. **PRINCIPAL WIND ENERGY FACILITY** – a system designed as the primary use on a lot, wherein the power generated is used primarily for off-site consumption.

WIND TURBINE – a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.



SECTION 4 – ACCESSORY WIND ENERGY FACILITIES (AWEF)

A) Requirements for All

1. Accessory Wind Energy Facilities (AWEF) shall be permitted as an accessory use. Applications for such uses shall be subject to the requirements set forth below, as well as all other applicable State or Federal Regulations.
2. AWEF constructed prior to the effective date of this Section shall not be required to meet the requirements of this Ordinance. With respect to an existing AWEF, any physical modification that materially alters the size, type and number of wind turbines or other equipment shall require approval under this Ordinance and meet the requirements of the Uniform Construction Code. Like kind replacements shall not require a building or land use permit modification.
3. The layout, design, and installation of AWEF should conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with the PA Uniform Construction Code and all applicable building and electrical codes of Fannett Township. The manufacturer specifications shall be submitted as part of the application.
4. Number of AWEF permitted on lots with both ground and building mounted AWEF.
 - i) One ground mounted AWEF and one building mounted AWEF is permitted on a lot.
5. Noise
 - i) The sound produced by the AWEF shall not exceed 50 dBA as measured at the property line at ground level.
 - ii) Noise limits may be exceeded during short-term events such as utility outages and/or severe wind storms.
 - iii) Methods for measuring and reporting acoustic emissions from PWEF shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.
6. When an accessory building is necessary for storage cells or related mechanical equipment, the accessory building shall comply with the Township's accessory building requirements.
7. The owner of an AWEF shall provide Fannett Township written confirmation that the public utility company to which the AWEF will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid AWEF shall be exempt from this requirement.
8. All on-site utility, transmission lines, and cables shall be placed underground.

9. The display of advertising is prohibited except for identification of the manufacturer of the system.
10. AWEF shall not be lighted except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations.
11. AWEF shall be painted a non-reflective, flat color such as white, off-white or gray unless required to be colored differently from FAA or BOA regulations.
12. AWEF shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
13. An AWEF shall not cause shadow flicker on any occupied building on a non-participating landowner's property.
14. No part of any AWEF shall be located within or above the required setbacks of any lot, extend over parking areas, access drives, driveways or sidewalks.
15. The owner of the AWEF shall provide evidence that the owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the AWEF.
16. The potential ice throw or ice shedding for an AWEF shall not cross the property line of the lot on which the AWEF is located nor impinge on any right-of-way or overhead utility line.
17. The AWEF owner shall ensure that the design and operation avoid disruption or loss of radio, telephone, television, cell, Internet or similar signals, and shall mitigate any harm caused thereby.
18. Decommissioning
 - i) Each AWEF and all associated equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same. The AWEF owner is required to notify the Township within 24 hours of cessation or abandonment of the operation.
 - ii) The AWEF shall be presumed to be discontinued or abandoned if no electricity is generated by such facility for a period of six (6) continuous months. If the Township has cause to believe the AWEF has been discontinued or abandoned, the Township shall provide notice to the owner. The owner shall have ninety (90) days to respond and demonstrate that the system is operational or provide reasonable cause for discontinued operations and the proposed remedy for returning the system to operation.
 - iii) The AWEF owner shall, at the request of the Township, provide information concerning the amount of energy generated by the AWEF in the last twelve (12) months.
19. Permit requirements

- i) Land use permit applications for accessory wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. A site plan shall show the location of the AWEF on the lot, lot lines, applicable setbacks, rights of way, adjoining occupied buildings, and above ground utility lines located on the lot. Permits must be kept on the premises where the AWEF is constructed.
- ii) The land use permit shall be revoked if the AWEF, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the AWEF not to be in conformity with this Ordinance.
- iii) For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for AWEF installations of 20kW or less and will not require project-specific soils studies. Applicants proposing projects involving substandard soil conditions or installations of AWEF greater than 20kW may be required by the Township to submit detailed soil studies.
- iv) The AWEF must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Township shall give written notice specifying the violation to the owner of the AWEF to conform or to remove the AWEF.

B) Requirements for Ground Mounted AWEF

- 1. Ground mounted AWEF may be placed on lots of any size assuming they meet the height and setback restrictions found in this section.
- 2. Height for Ground Mounted AWEF
 - i) AWEF height shall not be restricted assuming that the AWEF meets all prescribed setback requirements.
 - ii) The minimum ground clearance for the AWEF shall be 20 feet.
 - iii) Applicants shall file a Notice of Proposed Construction or Alteration with the BOA and the FAA for any AWEF that is more than 200' in height or in a designated Airport Hazard Overlay Zone. Applicant shall provide evidence from either FAA or BOA acknowledging that the ground mounted AWEF does not adversely affect the airspace of any airports.
- 3. Setbacks for Ground Mounted AWEF
 - i) AWEF shall be set back from property lines, occupied buildings, above ground utility lines, railroads and/or road rights-of-way by a distance equal to no less than 1.5 times the total height.
 - ii) AWEF shall be allowed closer to a property line than the prescribed setbacks if the abutting property owner(s) grants written permission in the form of a signed easement and the installation poses no interference with public utility lines, public roads and rail right-of- ways.
- 4. Number of Ground Mounted AWEF (no building mounted) allowed per lot.

- i) The number of ground mounted AWEF permitted on a lot shall be based upon lot size and follow the schedule below:

Lot Size	Maximum Number of Ground Mounted AWEF Per Lot
< 1 acre to 5 acres	1
5+ acres to 10 acres	2
10+ acres	3

5. Location

- i) Ground mounted AWEF are prohibited in front yards, between the principal building and the public street. Installation of a ground mounted AWEF may be authorized in front of the principal building, and outside the required front yard setback, if the applicant satisfactorily demonstrates to the Township that, due to wind access limitations, no location exists on the property other than the front yard where the AWEF can perform effectively.

6. Safety and security

- i) The owner shall post electrical hazard warning signs on or near the AWEF.
- ii) Ground mounted AWEF shall not be climbable up to 15 feet above ground surface.
- iii) Access doors to any AWEF electrical equipment shall be locked to prevent entry by unauthorized persons.
- iv) All AWEF shall be surrounded by a minimum 6' high chain link fence, or equivalent as determined by the Township Board of Supervisors, if the AWEF is not otherwise rendered unclimbable up to 25 feet above the ground.

C) Requirements for Building Mounted AWEF.

1. Building mounted AWEF may be located on any lot regardless of size.
2. Height regulations shall not apply to building mounted AWEF, provided the height does not exceed the Township's building height limitations by more than fifteen (15) feet.
3. There is no limit on the number of building mounted AWEF assuming that the building is capable of supporting the load of the AWEF.
4. For building mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township indicating the building is capable of holding the load imposed on the structure.

SECTION 5 – PRINCIPAL WIND ENERGY FACILITIES (PWEF)

A) Design and Installation

1. Principal Wind Energy Facilities (PWEF) shall be permitted as a principal use. Applications for such uses shall be subject to the requirements set forth below, Township approval of a land development plan in accordance with The Township Subdivision and Land Development Ordinance, as well as all other applicable State or Federal Regulations. A Planning and Design Standards report per the Township Subdivision and Land Development Ordinance shall be provided. The applicant shall submit a Storm Water Management Plan that demonstrates compliance with the Fannett Township Stormwater Management regulations. Any applicant for a PWEF has the burden of proving that the PWEF shall not be detrimental to the public health, safety, and welfare of the residents of Fannett Township.
2. Permit Requirement and Exemptions
 - i) PWEF constructed prior to the effective date of this Section shall not be required to meet the requirements of this Ordinance;
 - ii) With respect to an existing PWEF, any physical modification that materially alters the size, type and number of Wind Turbines or other equipment shall require approval under this Ordinance and meet the requirements of the UCC. Like kind replacements shall not require a permit modification.
3. The layout, design, and installation of PWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable building and electrical codes of Fannett Township. The manufacturer specifications shall be submitted as part of the application.
4. The applicant shall install wind turbine generators of no greater than two megawatts nameplate capacity each, unless otherwise agreed to with the Township, which comply with all terms and provisions of this Ordinance. The operator shall repair, maintain and replace the wind turbine generators and associated equipment in a manner consistent with good utility practice as needed to keep the wind turbine generator in good repair and operating condition. In the event of a violation of any of the foregoing provisions, the Township shall give written notice specifying the violation to the owner of the PWEF and requiring the owner to conform within 30 days of receipt of notice.
5. PWEF construction activities shall take place only between the hours of 7:00 a.m. and 7:00 p.m. during non-holiday weekdays.
6. Upon completion of installation, the PWEF shall be maintained in good working order in accordance with standards of the Fannett Township codes under which the PWEF was constructed. Failure of the property owner to maintain the wind energy system in good working order as determined by the Fannett Township Board of Supervisors shall be grounds for appropriate enforcement action by the municipality in accordance with applicable ordinances. A maintenance inspection shall be conducted by the PWEF owner/operator annually and within 48 hours after the

conclusion of all storm events determined to be a blizzard, tropical storm or hurricane. A written inspection and maintenance response report shall be filed with the Township no later than ten (10) business days after conclusion of said inspection.

7. The PWEF owner/operator shall provide the Township annually written notice confirming that the PWEF remains operational and is continuing to generate and distribute power. Said annual notice should also provide a figure confirming the amount of power currently being generated by the PWEF.
8. Applicants shall submit land development and/or subdivision plans which shall be compliant with all land development/subdivision ordinance requirements of the Township.
9. The applicant shall provide sufficient documentation showing that the PWEF will comply with all applicable requirements of the Federal Aviation Administration (FAA) and the Commonwealth Bureau of Aviation (BOA).
10. The PWEF shall provide the Township written confirmation that the public utility company to which the PWEF will be connected has been informed of the intent to install a grid connected system and approved of such connection.
11. All PWEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
12. Proof of written notification mailed to all adjoining landowners of the applicant's application to the Township and the applicant's intent to install a PWEF on the subject premises shall be provided.
13. All PWEF shall be designed and constructed in such a fashion as to avoid any disruption and/or interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source after construction of the PWEF, the developer/permittee shall immediately supply potable water in such quality and quantity as supplied by the original private water source. The applicant must provide written notice to all property owners and tenants occupying property within 2,500 feet of the boundary of the property upon which the PWEF will be located and advise them that applicant, at applicant's sole cost, will test their well prior to construction as to the land owners potable water, the quality of the water (to include turbidity, total petroleum hydrocarbons, volatile organic compounds, and heavy metals), and the quantity of the water supply. The report thereof shall be furnished to the Township and to the property owners and tenants.
14. Visual Appearance
 - i) All on-site utility, transmission lines, and cables shall be placed underground.
 - ii) PWEF shall be painted a non-reflective, flat color such as white, off-white, or gray unless required to be colored differently from FAA or BOA regulations.

- iii) PWEF shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall seek to minimize the disturbance to the surrounding views.
- iv) No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the PWEF. This prohibition, unless otherwise specified in this Ordinance, shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waiving, fluttering or revolving devices, but not including weather devices.
- v) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the PWEF and approved as such by the Township. If a ground mounted PWEF is removed, any earth disturbance resulting from the removal must be graded and reseeded to the Township's satisfaction.
- vi) No PWEF shall be installed at any location that would substantially detract from or block the view of the major portion of an officially recognized scenic vista, as viewed from any public road right-of-way or publicly accessible parkland or open space within the Township.
- vii) Accessory Buildings, Storage, Structures, Mechanical Equipment
 - (1) Accessory structures and equipment associated with PWEF shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, an opaque fence of sufficient height to obscure views may be used.
 - (2) The design of accessory buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening and landscaping that will blend the structures into the natural setting and existing environment.
 - (3) Outdoor storage. No storage of materials or equipment shall be allowed outside on site after the initial construction period is completed.

15. Warnings and Safety Measures

- i) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- ii) All access doors to PWEF including electrical equipment, outbuildings and all appurtenances thereto, shall be locked or fenced, as appropriate, to prevent entry by non-authorized personnel.
- iii) Wind Turbines shall not be climbable up to 25 feet above ground surface or the climbing apparatus shall be fully contained and locked within the tower structure.
- iv) A minimum six (6) foot high chain link fence with a locking gate shall be placed around the PWEF. The fence may not be placed within any required PWEF setback.
- v) Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10') feet from the ground.

- vi) The potential ice throw or ice shedding for a PWEF shall not cross the property line of the lot on which the PWEF is located nor impinge on any right-of-way or overhead utility line.
- vii) The applicant will provide a copy of the site plan and a project description to local emergency services. If emergency response personnel are deployed to the PWEF in response to an incident, the PWEF owner/operator shall reimburse all costs associated with said response. A sign indicating 24-hour telephone contact to the responsible party to report and react in a timely fashion to issues and/or emergencies shall be included. Instructions shall be provided to local fire and emergency personnel on how to safely enter and deactivate systems in daylight and night. Applicant will provide a means of immediate, 24-hour access to the site for emergency response personnel. (Knox boxes or equivalent).
- viii) The facility owner and/or operator shall abide by all applicable local, state and federal fire code and emergency guidelines. Upon request the applicant, facility owner and/or operator shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the PWEF. The owner/operator of the PWEF shall provide local emergency response entities with detailed documentation showing the PWEF layout, access roads and cartways, high-voltage equipment locations, chemical storage area locations, and the location of circuit breakers or “kill” switches to shut down electrical current to or from various sections of the PWEF. Such documentation shall be provided on a “need to know” basis as necessary to satisfy requirements relating to hazard mitigation, homeland security, and anti-terrorism initiatives.

B) Dimensional Requirements

1. Lot size

- i) In order for a tract(s) of land to be eligible for a PWEF, it must have a minimum lot size derived as follows: $(2 \text{ acres} \times \text{number of wind turbines}) + 18 \text{ acres} = \text{minimum lot size}$.
- ii) Wind turbines shall be separated from each other by a minimum of 1.1 times the total height of the highest wind turbine.

2. Setbacks

- i) Wind turbines shall be set back from all property lines a distance not less than 2 times its total height. All other PWEF structures shall be set back no less than 50 feet from all property lines.
- ii) Wind turbines shall be set back from an occupied building, on a non-participating landowner's property, not less than 5 times its total height measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- iii) Wind turbines shall be set back from an occupied building on a participating landowner's property, not less than 1.5 times its total height measured from the center of the wind turbine base to the nearest point of foundation of the occupied building. Any operator-occupied building(s) used in connection with the development are exempt from this distance limit.
- iv) Wind turbines shall be set back from the nearest public road right-of-way a distance of not less than 2 times its total height, as measured from the right-of-way line to the center of the Wind Turbine base.
- v) Each wind turbine shall be set back from above-ground electric power lines, public telephone lines and television cable lines a distance of no less than 2 times its total height. The setback

distance shall be measured from the center of the wind turbine generator base to the nearest point of such lines.

vi) All wind turbines shall be setback from any ridge a distance of not less than the wind turbine's total height. For this provision, "ridge" shall be defined as the elongated crest or series of crests at the uppermost point of intersection between opposite slopes of a mountain and including all land lying between such point and an elevation 250 feet below the elevation of such point.

vii) Wind turbines shall not be located in a special protection watershed (HQ or EV) or karst geologic setting; shall be set back at least 2,500 feet from Important Bird Areas as identified by Pennsylvania Audubon, County natural heritage areas, lakes, dams, ponds, and public water source wells and springs; and shall be set back at least 1,500 feet from other identified wetlands and waters of the Commonwealth.

viii) Each wind turbine shall be set back from any historic structure, district, site or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission a distance of no less than 2,500 feet. The setback distance shall be measured from the center of the wind turbine generator base to the nearest point on the foundation of an historic building, structure or resource, or the nearest property line of an historic district or site.

ix) Accessory buildings, structures, and related equipment to the PWEF shall be set back a minimum of 50 feet from the side and rear property line.

3. Waiver of Setbacks

i) Property owners may waive the setback requirements for occupied buildings on non-participating landowner's property and property lines by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.

ii) The written waiver shall notify the property owner(s) of the setback required by this Ordinance, describe how the proposed PWEF is not in compliance, and state that consent is granted for the Facility to not be setback as required by this Ordinance.

iii) Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located. The waiver shall describe the properties benefited and burdened and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.

4. Height

i) There shall be no specific height limitation, so long as the total height meets sound and setback requirements, except as imposed by FAA regulations.

ii) The minimum ground clearance shall be thirty (30) feet.

5. No PWEF shall be located on a lot of record containing slopes exceeding 15% on 50% or more of the lot of record. This standard shall apply to each lot where a PWEF extends across multiple lots of record.

C) Operational Standards

1. Use of Public Roads

- i) A construction transportation plan shall be provided that illustrates all roadways and routes to be utilized for ingress to and egress from the PWEF during construction activities. This plan shall address steps necessary to jointly inspect affected municipal roads prior to, during, and after construction activities. It shall also address steps to repair or replace municipal roads if they are damaged and paid for by the PWEF owner/operator. Fannett Township shall require a bond from the PWEF owner/operator for the costs of such repairs/maintenance consistent with existing municipal procedures.
- ii) The Township Engineer, or a qualified third party engineer hired by the Township and paid for by the applicant, shall document public road conditions prior to construction of the PWEF. The engineer shall also document road conditions within thirty (30) days after construction of the permitted project is complete, or as soon thereafter as weather may allow.
- iii) Any municipal road damage caused by the applicant, facility owner, operator, or contractors shall be promptly repaired to the Township's satisfaction at the expense of the applicant and/or facility owner.
- iv) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged public roads.
- v) Every effort should be made to use existing roads and logging roads. New deforestation and forest fragmentation shall be kept to a minimum and approved by the Township. Private entrance roads to PWEF must be maintained in a mud-free condition.
- vi) Access to the PWEF shall comply with the access requirements in the Fannett Township Subdivision and Land Development Ordinance. Highway Occupancy Permits shall be required from the State or Township for any proposed driveway access and/or utility road crossing.

2. Noise

- i) Audible sound from a PWEF shall not exceed 50 dBA, as measured at the property line between participating and non-participating landowners.
- ii) Noise limits may be exceeded during short-term events such as utility outages and/or severe wind storms.
- iii) Methods for measuring and reporting acoustic emissions from PWEF shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.

3. A Wind Turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

4. Shadow Flicker.

- i) A PWEF shall not cause shadow flicker on any occupied building on a non-participating landowner's property.
- ii) A PWEF shall be designed in such a manner as to minimize shadow flicker on a roadway.
- iii) The facility owner and operator shall conduct, at the applicant's expense, a modeling study demonstrating that shadow flicker shall not occur on any occupied building on a non-participating property.

5. Waiver of Noise and Shadow Flicker Provisions

- i) Non-participating landowners may waive the noise and shadow flicker provisions of this Ordinance at the request of the participating landowners or PWEF owner by signing a waiver of their rights.
- ii) The written waiver shall notify the non-participating landowner(s) of the noise or flicker limits in this Ordinance, describe the impact on the non-participating landowner(s), and state that the consent is granted for the PWEF to not comply with the noise or flicker limit in this Ordinance.
- iii) Any such waiver shall be recorded in the Recorder of Deeds Office of the County where the property is located. The waiver shall describe the properties benefited and burdened and advise all subsequent purchasers of the burdened property that the waiver of noise or flicker limit shall run with the land and may forever burden the subject property.

6. Facility owner and/or operator shall ensure that the design and operation of any PWEF avoids disruption or loss of radio, telephone, television, cell, internet or similar signals, and shall mitigate any harm caused thereby.

7. The applicant will utilize good utility practice to minimize, to the extent practicable, the impact, if any, of stray voltage and/or electromagnetic fields (EMF) on non-participating property. A plan shall be provided to demonstrate expected instances and measures to minimize said impacts.

8. The applicant shall provide a proposed foundation design and analysis of soil conditions by a professional engineer.

9. Public Inquiries and Complaints

- i) The Facility 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 project.
- ii) The Facility Owner and Operator shall document efforts to respond to the public's inquiries and complaints.
- iii) The Facility Owner and/or Operator shall keep a record of all such inquiries, complaints and responses and shall submit a report thereof to the Township once every six months.

10. Any owner/operator of a PWEF shall submit to Township proof that it has public liability insurance (including personal injury liability) for at least \$1,000,000 per individual and at least \$2,000,000

per occurrence to cover any loss that may be incurred for or on account of any matter, cause or thing arising out of the PWEF. Proof of insurance shall be a Certificate of Insurance and shall be provided to the Township at the time of commencement of construction and annually every year thereafter.

Decommissioning

- i) The PWEF owner and/or operator is required to notify the Township within 24 hours of cessation or abandonment of the operation. The PWEF shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of six (6) continuous months. If the Township has cause to believe the PWEF has been discontinued or abandoned, the Township shall provide notice to the owner and/or operator. The owner and/or operator shall have ninety (90) days to respond and demonstrate that the system is operational or provide reasonable cause for discontinued operations and the proposed remedy for returning the system to operation. Any necessary permits and approvals including, but not limited to, erosion and sedimentation control plans, and permits under the National Pollutant Discharge Elimination System (NPDES) program pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, shall be obtained prior to the initiation of decommissioning activities.
- ii) The PWEF owner shall then have twelve (12) months in which to dismantle and remove the PWEF including all wind energy related equipment or appurtenances related thereto, including but not limited to turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and other associated facilities from the property. If the owner fails to dismantle and/or remove the PWEF within the established timeframes, the Township may complete the decommissioning by drawing on the financial security described in subsection iii. below. If the financial security funds are insufficient to dismantle and remove the PWEF as described above, then the legal record owner of the property and the PWEF owner/operator shall both be liable for any shortfall. This liability shall be joint and several liability. The Township shall have the right to place a lien on the property for any additional costs in excess of the financial security. Access roads may remain in place if so desired by the property owner and such desire is expressed in writing to the Township. Disturbed earth shall be graded and re-seeded to the Township's satisfaction, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- iii) At the time of issuance of the Land Use Permit for the construction of the PWEF, the owner shall provide financial security in a form and amount acceptable to the Township to secure the expense of dismantling and removing said PWEF and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original. The amount of said financial security shall be determined by the Township Engineer. The PWEF Developer shall, at the time of application, provide the municipality with an estimate of the cost of performing the decommissioning activities required herein, prepared by an engineer licensed in the Commonwealth of Pennsylvania, together with an administrative and inflation factor of 25% to account for the cost of obtaining permits to complete said activities. The estimate shall not include an estimated salvage and resale value. The estimate shall indicate the anticipated life of the PWEF. The decommissioning cost estimate formula shall be: Gross Cost of decommissioning activities + Administrative Factor of 25% = the decommissioning cost estimate. The Township Engineer shall then review said estimate and recommend for approval to the Board of Supervisors the final amount of financial security taking into account said estimate and other factors. The PWEF Developer/ Owner shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review. In

addition, five (5) years after the date of the initial deposit of said financial security, and every five (5) years thereafter, the Township Engineer shall review the financial security to determine if said security needs to be increased or decreased. If a change in the amount of the financial security needs to be made, the owner/operator shall provide financial security in the amount required within thirty (30) days of the approval of the updated decommissioning security estimate by the Township.

- iv) The decommissioning security may be in the form of cash, letter of credit, or bond.
- v) Prior to approval of any plan or permit for a PWEF, the PWEF Developer shall enter into a Development Agreement with the municipality outlining among other things the responsibility of the parties under this Agreement as to the Decommissioning of the PWEF.

D) Application Requirements. An application for a PWEF shall include the following:

1. A narrative describing the proposed PWEF, including an overview of the project, the project location, the approximate generating capacity of the PWEF, the approximate number, representative types and height or range of heights of wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
2. An affidavit or similar evidence of agreement between the property owner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the property owner to apply for necessary permits for construction and the operation of the PWEF and setting forth the applicant's and property owner's name, address, phone number, and email contact information.
3. Identification of the properties on which the proposed PWEF will be located, and the properties adjacent to where the PWEF will be located, by owner's name and County tax parcel identification number. An index map illustrating said properties with identifiers shall also be provided.
4. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the PWEF to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback.
5. The applicant is required to contact and present their proposals by certified return receipt mail to each of the following agencies: U.S. Fish and Wildlife Service, Pennsylvania Historical and Museum Commission, Pennsylvania DCNR Bureau of Forestry, Pennsylvania Game Commission, and Pennsylvania Fish and Boat Commission. The applicant will copy the Township on any correspondence sent to or received from the agencies. The applicant is required to follow all the recommendations and all directives of the agencies and provide the Township with a letter of consistency from each agency. Should any agency fail to respond within 90 days of the date of return receipt to an applicant's request for review of the proposal, this section will be satisfied as to the need to obtain a finding of consistency from that specific agency. Greater setback requirements or recommendations of these agencies as they relate to Natural Resources and Historic Sites and Structures shall supersede the Township-prescribed setbacks. Where the different agencies differ in their standards, recommendations or requirements, the stricter standards, recommendations and requirements shall be followed by the applicant.

6. A Decommissioning Plan sufficient to demonstrate compliance with Section C.11 above.
7. A wind resource study shall be submitted documenting wind resources at the site. The study shall include but is not limited to data showing average wind speeds capable of generating electricity and the available capacity to transmit the electricity into the power grid.
8. A noise study in accordance with Section C.2 above.
9. A shadow flicker study in accordance with Section C.4 above.
10. Other relevant studies, reports, certifications and approvals as required by this Ordinance or as may be requested by the Township to ensure compliance with this Ordinance.
11. Once issued, permits must be kept on the premises where the PWEF is constructed. Throughout the approval process, the applicant shall promptly notify the Township of any changes to the information contained in the application.

SECTION 6 – PENALTIES AND ENFORCEMENT.

- A) This Ordinance shall be enforced as summary criminal offenses in accordance with Section 1601 of the Second Class Township Code, as amended, regarding regulations for health, public safety, building, property maintenance, housing or fire. The penalty to be imposed shall be a maximum fine of \$1,000 or imprisonment for a maximum period of 90 days, or both. Each day that a violation exists and is continued shall constitute a separate offense.
- B) The Township shall also be entitled to recover from any owner all costs or fees (the “costs”) arising out of or related to the enforcement of this Ordinance. Such costs may also include those to remedy violations of this Ordinance and abate nuisances. The costs shall include, but not be limited to, engineer fees, attorney fees and staff/employee time. The costs may be collected as a Municipal Claim under applicable law against the property. The Township may also enforce this Ordinance through an action in equity brought in the Franklin County Court of Common Pleas.

SECTION 7 – WAIVERS AND MODIFICATIONS.

- A) Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unreasonable hardship, the Board of Supervisors may make such reasonable waivers and/or modifications thereto which are in accordance with modern and evolving principles, and which are not contrary to the public interest and so that the spirit of the Ordinance shall be observed and substantial justice done.
- B) Application letter, along with all supporting data, for any waiver and/or modification shall be submitted to the Township in writing by the applicant. The application letter shall state fully the grounds and all the relevant facts regarding the situation. The Supervisors may require additional details as part of their review.
- C) The Board of Supervisors shall make their decision, record the action and grounds for granting or denying the waiver and/or modification in its minutes.

SECTION 8 - REPEALER AND SAVINGS CLAUSE:

All provisions of other Fannett Township Ordinances are hereby revised and amended, as necessary and appropriate, in order to insure and confirm consistency thereof with the provisions of the present Ordinance. Any Ordinance or Resolution, or any portion of any Ordinance or Resolution, which is inconsistent with the contents of the present Ordinance shall be, and the same is hereby, repealed insofar as the same is affected by or inconsistent with the provisions of the present Ordinance.

SECTION 9 - SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the present Ordinance.

SECTION 10 - EFFECTIVE DATE

This Ordinance shall be effective in accordance with the law.

ENACTED AND ORDAINED into an Ordinance this ____ day of _____, 2025.

ATTEST:

**FANNETT TOWNSHIP,
FRANKLIN COUNTY,
PENNSYLVANIA**

BOARD OF SUPERVISORS OF

FANNETT TOWNSHIP

Georgia O'Donnell
Township Secretary / Treasurer

Chairperson

(SEAL)