BILL NO. B-1-2011 **ORDINANCE NO. 1237**

TOWNSHIP OF O'HARA
ALLEGHENY COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF O'HARA AMENDING THE ZONING ORDINANCE NO. 1091 TO PROVIDE REGULATIONS OF CERTAIN RENEWABLE ENERGY GENERATING STRUCTURES AND FACILITIES, AND PROVIDING FOR SEVERABILITY AND REPEAL OF PRIOR INCONSISTENT ORDINANCES

WHEREAS, the **TOWNSHIP OF O'HARA COUNCIL** has reviewed the proposed zoning amendment; and

WHEREAS, the **O'HARA TOWNSHIP PLANNING COMMISSION** reviewed the Ordinance on December 20, 2010 and made a recommendation of adoption to the **Township Council;** and

WHEREAS, the Township of O'Hara Council held a public hearing on February 8, 2011 as provided by the O'Hara Township Code and the Pennsylvania Municipalities Planning Code at which time testimony was received concerning the amendment; and

WHEREAS, the Township of O'Hara advertised the Public Hearing with notice of intent to adopt the proposed amendment on February 4, 2011 as provided by the O'Hara Township Code and the Pennsylvania First Class Township Code; and

WHEREAS, safe and effective use of wind energy systems, geothermal energy systems, and solar energy systems can reduce consumption of electricity provided through traditional sources, resulting in cost savings and environmental benefits;

WHEREAS, the Township of O'Hara Council finds it necessary to adopt requirements for wind energy systems, solar energy systems and geothermal energy systems so that these renewable energy resources can be utilized in a manner that minimizes potential impacts;

WHEREAS, the Township Comprehensive Plan recommends that the Township's Zoning, and Subdivision and Land Development Ordinances encourage sustainable building practices; and

WHEREAS, in the judgment of the Township Council, an ordinance to address the impacts of certain energy generating structures and facilities on properties and citizens is consistent with the overall Township Comprehensive Plan.

NOW, THEREFORE, in consideration of the foregoing, it is hereby ordained and enacted by the authority of the Council of the Township of O'Hara that Chapter 72, "Zoning" of the Township Code of Ordinances is hereby amended as follows.

SECTION I.

Article II, Section 72-2.9, Definitions, is modified by adding the following:

Wind Energy Facility – An electric generating facility, with the purpose of electricity supply, consisting of one or more wind turbines and other ancillary associated buildings and structures, including sub-stations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

Solar Energy Facility – An electric generating facility, with the purpose of generating electricity, or providing hot water heat, consisting of one or more solar panels and other ancillary associated buildings and structures, including sub-stations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities.

Geothermal Energy Facility – A generating facility capable of capturing and converting hydrothermal energy into hydronic or electrical energy sources.

SECTION II.

Article XIII, Supplemental Regulations, is modified by adding:

Section 72-12.113 Solar Energy Facility, Accessory Use

A. Township zoning approval is required for the construction of any solar energy facility that is an accessory use on any site or lot.
   a. The Zoning Permit Application shall indicate the location of the proposed facility, including the percentage of roof coverage, if the facility is mounted on a building.

B. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to information regarding site selection, facility design or appearance, buffering, and screening of ground mounted electrical control equipment.

C. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.

D. Noise from any solar energy facility shall not exceed fifteen decibels at the lot line, unless all affected adjacent property owners shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the Office of the Recorder of Deeds of Allegheny County. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled

Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

E. Construction of any solar energy facility shall comply with all applicable rules, laws and regulations of the United States Federal Aviation Administration, documentation of compliance shall be provided to Township.

F. To the extent applicable, all solar energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

G. All electrical components of solar energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

H. Solar energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

I. Solar energy facilities shall not display advertising, except for reasonable identification nameplate of the facility manufacturer, not greater than one square foot in size.

J. Transmission and power lines shall be placed underground or out of sight.

K. Where installed on the roof of a building, no solar energy facility shall be installed such that more than 50% of roof area is covered by the facility.

L. Any solar energy facility installed on a roof of a building shall comply with the height requirements of the zoning district in which the property is located.

M. No solar energy facility or facilities may exceed in total 30% of the total site and in no case shall exceed the maximum lot coverage for the district in which the property is located.

N. Solar energy facilities shall meet the accessory structure setbacks that may apply in the zoning district which the facility is constructed and where no such setback is specified, the facility shall be no closer than (15) fifteen feet from any property line.

O. No facility shall be attached to a tree or any other natural object or structure not intended to support such a facility.

P. No facility shall be installed closer than ten feet (10') to a swimming pool or other open body of water.

Section 72-12.114 Wind Energy Facility, Accessory Use

A. Township Zoning Approval is required prior to the construction of any wind energy facility on any site or lot.

   a. The Zoning Permit Application shall indicate the location or the proposed facility.

B. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to information regarding site selection, facility design or appearance, buffering, and screening of ground mounted electrical control equipment.

C. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.

D. Noise from any wind energy facility shall not exceed fifteen decibels at the lot line, unless all affected adjacent property owners shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the Office of the Recorder of Deeds of Allegheny County. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

E. Construction of any wind energy facility shall comply with all rules, laws and regulations of the United States Federal Aviation Administration. Documentation of compliance shall be provided to the Township.

F. To the extent applicable, all wind energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

G. All electrical components of wind energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

H. Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

I. Wind energy facilities shall not display advertising, except for reasonable identification nameplate of the facility manufacturer, not greater than 1 square foot in size.

J. Transmission and power lines shall be placed underground or out of sight.

K. Yard /Setbacks Requirements:

a. Minimum lot area 2 Acres

b. From buildings: 1.1 times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any moveable or immobile part; except where the facility is mounted to a building, the setback shall not be required between the facility and the building to which it is attached or the principal structure setback for the district, whichever is greater.

c. From property lines: 1.1 times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any moveable or immobile part or the principal structure setback for the district, whichever is greater.

d. From public roads: 1.1 times the height of the wind energy facility at its tallest point, measured from the bottom of the facility base to the highest reach of any moveable or immobile part or the principal structure setback for the district, whichever is greater.

e. Each vertically oriented wind energy facility mounted on a building shall be separated from any other wind energy facility by 1.1 times the height of the facility, measured from the point at which the facility is mounted to the building, to the highest reach of any moveable or immobile part of the facility.

f. Any wind energy facility that is an accessory structure shall meet the applicable accessory structure setbacks that may apply in the zoning district within which the facility is constructed and where no setback is specified, the facility shall be no closer than 15 feet from the property line or the distance set forth above being 1.1 times the height of the facility, measured from the base to the highest moveable or immobile part, whichever is greater.

L. Maximum height: Where the facility is an independent structure and not mounted to a building, 50 feet maximum height in residential zoning districts and one hundred twenty-five feet maximum height in C- commercial and SM-Suburban Manufacturing Districts, measured from ground level to the tip of the wind energy facility's blade fully extended perpendicular to the ground plane. Where the facility is mounted to a building, the maximum height shall be ten feet higher than the tallest point on the building.

M. Minimum vertical clearance between ground level and the lowest moveable component of the wind energy facility when at its lowest point: 15 feet.

N. The color shall be a neutral and non-reflective tone, such as white, off-white or gray. The facility coloring shall be solid and any alphabetical or numerical characters shall be representative of the facility manufacturer only and shall comprise no more than one square foot in size.

Section III

Wind and Solar Energy Facilities as Principal Uses:

Articles: IV, V, VI, VII, VIII, IX, Conditional Uses: is hereby amended by adding the following uses:

Wind Energy Facility is permitted as a Conditional Use within the SM-Suburban Manufacturing, C-Commercial, CD-1-Conservation District, CD-2 Conservation District zoning districts.

Solar Energy Facility is permitted as a Conditional Use within the SM-Suburban Manufacturing, C-Commercial, CD-1-Conservation District, CD-2 Conservation District.

Wind and Solar Energy Facilities as Accessory Uses:

Solar Energy Facility is permitted in all zoning districts in the Township.

Wind Energy Facility is permitted in the R-1 Special Residential District, R-2 Suburban Residential District, C - Commercial and SM-Suburban Manufacturing zoning Districts.

Wind Energy Facility is permitted as a Conditional Use within the CD-1 and CD-2 zoning districts.

Section IV

Article XIII, Supplemental Regulations, is modified by adding:

Section 72-12.115 Solar Energy Facility, Principal Use

A. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to information regarding site selection, facility design or appearance, buffering, and screening of ground mounted electrical control equipment.

B. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.

C. Noise from any solar energy facility shall not exceed fifteen decibels at the lot line, unless all affected adjacent property owners shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the Office of the Recorder of Deeds of Allegheny County. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

D. Construction of any solar energy facility shall comply with all applicable rules, laws and regulations of the United States Federal Aviation Administration, documentation of compliance shall be provided to Township.

E. To the extent applicable, all solar energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

F. All electrical components of solar energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

G. Solar energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

H. Solar energy facilities shall not display advertising, except for reasonable identification nameplate of the facility manufacturer, not greater than one square foot in size.

I. Transmission and power lines shall be placed underground or out of sight.

J. The following project information shall be submitted to the Township for every proposed solar energy facility:

a. Project narrative including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the solar energy system.

b. An affidavit or similar evidence of agreement between the property owner and the solar energy facility owner or operator, demonstrating permission to apply for necessary permits for construction and operation of a solar energy facility.

c. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.

d. A site plan showing the planned location of each proposed solar energy facility, property lines, setback lines, access roads, and the location of any ancillary structures, including equipment, cabling, buildings, structures, transmission lines, and substations.

e. A view shed impact analysis, illustrating views of the proposed facility from multiple angles.

f. A design certification by a certified engineer, consisting of the proposed foundation design and analysis of soil conditions.

K. Solar Energy Facilities shall not exceed a maximum height of 15 feet, measured from the ground to the tallest point on the facility.

L. Preliminary and Final Land Development approvals are required for the construction of any solar energy facility when it is the principal use on a site or lot.

M. All solar energy facilities and any associated equipment shall comply with all area, dimensional, and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that apply, including buffering and landscaping.

a. Required landscape buffering may be modified so that tall tree species may be replaced with lower-growing tree species where the required tree species may interfere with the functioning of the solar energy facility, only where the required landscape buffer is adjacent to property where non-residential uses are permitted.

N. Secure perimeter fencing shall be installed around the solar energy facility. The fencing shall not be constructed within any required landscape buffer or setback. The fencing shall be chain link construction with rubberized coating in neutral earth tone colors such as black or brown.

Article XIII, Supplemental Regulations, is modified by adding:

Section 72-12.116 Wind Energy Facility, Principal Use

A. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to information regarding site selection, facility design or appearance, buffering, and screening of ground mounted electrical control equipment.

B. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.

C. Noise from any facility shall not exceed 50 decibels at the lot line adjacent to any lot in a non-residential zoning district and 15 decibels at the lot line adjacent to any lot in a residential zoning district, unless the adjacent property owner shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the Office of the Recorder of Deeds of Allegheny County. The decibel measurement shall be taken at the exterior of any occupied structure on any property other than that occupied by the facility. Methods for measuring acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

D. Construction of any wind energy facility shall comply with all rules, laws and regulations of the United States Federal Aviation Administration. Documentation of compliance shall be provided to the Township.

E. To the extent applicable, all wind energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

F. All electrical components of wind energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

G. Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

H. Wind energy facilities shall not display advertising, except for reasonable identification nameplate of the facility manufacturer, not greater than one square foot in size.

I. Transmission and power lines shall be placed underground or out of sight.

J. Preliminary and Final Land Development Approval is required for the construction of any wind energy facility when it is the principal use on a site or lot.

K. Yard/Setback Requirements

a. Minimum Lot Area — 5 Acres

b. Maximum Density — 1 Facility/3.66 square miles

c. All setbacks shall be measured from the center of any wind energy facility base to the nearest point on the foundation of a building or property line

d. From Off Premises Buildings: 1.5 times the height of the wind energy facility at its tallest point or the setback for the district in which the facility is located, whichever is greater

e. From Property Lines: 1.1 times the height of the wind energy facility at its tallest point or the setback for the district in which the facility is located, whichever is greater

f. From Public Roads: 1.1 times the height of the wind energy facility at its tallest point or the setback for the district in which the facility is located, whichever is greater

L. The maximum height of any wind energy facility shall not exceed 120 feet, measured from ground level to the tallest point of the facility, measured to the tip of the blade fully extended perpendicular to the ground plane.

M. Any individual wind energy facility shall be separated from any other wind energy facility by a minimum of 1.1 times the height of the facility, measured from the tips of the blades when the blades are parallel with ground level.

N. No moving parts of the wind energy facility shall extend over parking areas, driveways, roads or sidewalks, except access ways necessary to service the facility.

O. The facility coloring shall be solid neutral tones such as white, off-white, or gray. Any alphabetical or numeric characters shall be representative of the facility manufacturer only and shall comprise no more than four square feet.

P. The following project information shall be submitted to the Township for every proposed wind energy facility.

a. Project narrative including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the wind energy system.

b. An affidavit or similar evidence of agreement between the property owner and the wind energy facility owner or operator, demonstrating permission to apply for necessary permits for construction and operation of a wind energy facility.

c. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.

d. A site plan showing the planned location of each proposed wind energy facility, property lines, setback lines, access roads, and the location of any ancillary structures, including equipment, cabling, buildings, structures, transmission lines, and substations.

e. A view shed impact analysis, illustrating views of the proposed facility from multiple angles.

f. A design certification by a certified engineer, consisting of the proposed foundation design and analysis of soil conditions.

Q. Decommissioning Funds shall be posted and maintained with the Township in an account equal to one hundred twenty-five percent of the estimated decommissioning costs, for as long as the facility exists, regardless of change of ownership of the facility or property on which it sits. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations and any other associated facilities.

a. An independent and certified professional engineer shall estimate the total cost of decommissioning without regard to salvage value or the equipment.

b. Decommissioning funds shall be deposited into a refundable escrow of same amount with the Township.

c. If the wind energy system remains unused for a period of twelve consecutive months, the owner, operator, or property owner shall, at its expense, complete decommissioning of the system within six months. The wind energy system will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twenty-four months.

d. If the facility owner, operator, or property owner shall fail to appropriately complete decommissioning, the Township may take such action as necessary to complete the decommissioning. The entry into and 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.

R. There shall be no components attached or integral to the facility that facilitates unauthorized access to the structure, such as ladders or steps.

S. All access doors to wind energy facilities and electrical equipment shall be located or fenced as appropriate, to prevent entry by unauthorized persons.

Section IX

Geothermal Energy Facilities

Geothermal Energy Facility, Principal Use
Articles: IV, V, VI, VII, VIII, IX: Conditional Uses: is hereby amended by adding the following uses:

A. Geothermal Energy Facility is permitted as a Conditional Use within the SM-Suburban Manufacturing, C-Commercial, CD-1-Conservation District, CD-2 Conservation District.

Geothermal Energy Facilities, as Accessory Uses

A. Geothermal Energy Facility is permitted in all zoning districts in the Township.

Article XIII, Supplemental Regulations, is modified by adding:

Section 72-12.117 Geothermal Energy Facility, Principal Use

A. The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's impacts will be minimized for surrounding properties and the community. This may include, but not be limited to information regarding site selection, facility design or appearance, buffering, and screening of ground mounted electrical control equipment.

B. Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.

C. Noise from any geothermal energy facility shall not exceed fifteen decibels at the lot line, unless all affected adjacent property owners shall have executed a non-disturbance easement, covenant, or consent which has been recorded in the Office of the Recorder of Deeds of Allegheny County. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.

D. To the extent applicable, all geothermal energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

E. All electrical components of geothermal energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

F. Geothermal energy facilities shall not display advertising, except for reasonable identification nameplate of the facility manufacturer, not greater than four square feet in size.

G. Transmission and power lines shall be placed underground or out of sight.

H. The following project information shall be submitted to the Township for every proposed geothermal energy facility,

a. Project narrative including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the geothermal energy system.

b. An affidavit or similar evidence of agreement between the property owner and the geothermal energy facility owner or operator, demonstrating permission to apply for necessary permits for construction and operation of a geothermal energy facility.

c. Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.

d. A site plan showing the planned location of each proposed geothermal energy facility, property lines, setback lines, access roads, and the location of any ancillary structures, including equipment, cabling, buildings, structures, transmission lines, and substations.

e. A view shed impact analysis, illustrating views of the proposed facility from multiple angles.

f. A design certification by a certified engineer, consisting of the proposed foundation design and analysis of soil conditions.

I. Preliminary and Final Land Development approval is required for the construction of any geothermal energy facility when it is the principal use on a site or lot.

J. All geothermal energy facilities and any associated equipment shall comply with all area, dimensional, and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that apply, including buffering and landscaping.

a. Required landscape buffering may be modified so that tall tree species may be replaced with lower-growing tree species where the required tree species may interfere with the functioning of the geothermal energy facility, only where the required landscape buffer is adjacent to property where non-residential uses are permitted.

K. Secure perimeter fencing shall be installed around the geothermal energy facility. The fencing shall not be constructed within any required landscape buffer or setback. The fencing shall be chain link construction with rubberized coating in neutral earth tone colors such as black or brown.

Geothermal Energy Facility, Accessory Use

A. To the extent applicable, all geothermal energy facilities shall comply with the Pennsylvania Uniform Construction Code and regulations promulgated by the Pennsylvania Department of Labor and Industry.

B. All electrical components of geothermal energy facilities shall conform to relevant and applicable local, State and National Codes, and relevant and applicable international standards.

C. Geothermal energy facilities shall meet the accessory structure setbacks that may apply in the zoning district within which the facility is constructed and where no such setback is specified, the facility shall be no closer than (10) ten feet from any property line.

ORDAINED AND ENACTED INTO LAW this 8th day of February, 2011, by Council vote of 7 to 0.

TOWNSHIP OF O'HARA

ATTEST

Julie A. Jakubec, CPA
Township Manager

Robert John Smith
President of Council

First Reading	Kozera, Sr. – Vogel	7 - 0	01/11/2011
Public Hearing	02/08/2011		
Second Reading and Adoption	Kozera, Sr. – Denny, Jr.	7 - 0	02/08/2011
Advertised	02/24/2011	Codified	_____