

Town of North Hero
Bylaw Screening Standards
for Ground-Mounted Solar
Electricity Generation Plants (GMSP)

As Approved by the Voters of North Hero
March 6, 2018

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- Public Utility Commission References
- PUC Net Metering Application Form
- PUC Requirements For Petitions To Construct Electric And Gas Facilities Pursuant To 30 V.S.A. § 248; Rule 5.400
- PUC Requirements Related To The Installation And Maintenance Of Aesthetic Mitigation Measures; Rule 5.800

- **Vermont Statutory References:**
 - 24 V.S.A. § 4414 Municipal and County Government Ch.117
 - 30 V.S.A. § 248(s)

1) Authority.

- a) This bylaw is adopted by the Town of North Hero under the authority of Title 24, Chapter 117 §4414(15) to adopt screening standards for Ground Mounted Solar Electricity Generation Plants (GMSP).
- b) The screening requirements in this bylaw are not intended to be more restrictive than screening requirements applied to commercial development in the North Hero Development Regulations. (see T.24 § 4414 Municipal and County Government Ch.117 (A), and North Hero Development Regulations, August 26, 2014 for referenced Bylaw standards)
- c) The North Hero Select Board is hereby designated as the municipal body to make recommendations to the Public Utility Commission applying this Bylaw to ground-mounted solar electricity generation plants (GMSP).

2) Purpose.

The purpose of this bylaw is to: Implement the 2015 North Hero Town Plan, specifically the following goals and policy:

- a) Encourage development of renewable resources.
- b) Promote increased awareness and use of renewable energy resources as well as the conservation of existing energy resources.
- c) Support efforts to implement renewable energy, including incorporating renewable energy in all new construction of Town buildings and the review of utilizing town properties and buildings, such as the maintenance building for renewable, particularly solar, installations.
- d) Ensure that the development of GMSPs is harmonized with their surrounding landscape through the implementation of appropriate screening.

3) Applicability.

- a) The requirements of this bylaw shall apply to all land in the Town of North Hero, regardless of zoning district.
- b) This bylaw shall apply to GMSPs that are greater than 15kW. GMSPs 15kW and less are exempt from this Bylaw.
- c) Except the GMSP and related development required by the PUC, the provisions of this bylaw shall not exempt either ancillary, related or additional non-solar development, such as roads, on the same site from North Hero zoning. Development or permits for such use shall be by separate application under provisions of North Hero Development Regulations.

4) Fees.

The Select Board will establish fees for Planning Commission review under this bylaw. Such fee(s) shall include the costs of public notice, public hearings, and site visits. Fees must be paid for applications to be considered complete. Fees are non-refundable.

5) Application Filing and Scheduling a Public Hearing.

- a) Petitioners seeking approval of a GMSP under Title 30, Chapter 5 §248 shall send a Notice of Filing a Certificate of Public Good and/or the full Petition for a Certificate of Public Good if a notice is not required by certified letter to the Zoning Administrator, Town of North Hero, PO Box 38, North Hero, VT 05474, or hand delivered to the Town Clerk.
- b) Upon receipt of a petitioner's Notice of Filing for a Certificate of Public Good, or for smaller net-metered projects receipt of a copy of a petition for a Certificate of Public Good, the Zoning Administrator shall provide the petitioner with a copy of this bylaw and written notification that the Planning Commission is required to hold a duly warned public hearing (per the requirements of Title 24, Chapter 117 §4464(a)(2)) to hear testimony on compliance to the standards in this bylaw within 30 days of receipt of a complete application.
- c) The public hearing shall be scheduled by the Zoning Administrator. Upon request and at the discretion of the Zoning Administrator, an applicant under this bylaw may request an extension to the 30 day public hearing deadline should there be delays in the Certificate of Public Good review and issuance process.
- d) Prior to filing a petition for a Certificate of Public Good or giving notice of filing, an applicant may contact the North Hero Zoning Administrator and submit an application to be scheduled for a public hearing before the Planning Commission at any time.

6) Application Materials.

A complete application shall include, (referenced North Hero Development Regulations, August 26, 2014, Section: 6.5):

- a) The Town of North Hero GMSP Screening Application Form;
- b) The application fee;
- c) Petitioners seeking approval of a GMSP shall provide the following PUC documents as part of this application: Net Metering Application Form, PUC Project Site Plan Construction Drawing, and the applicant's Aesthetic Mitigation Plan.
- d) Either a site plan or survey plat is required.
 - i) A Site Plan is a detailed illustration of the proposed solar installation of 15 kW to 50 kW. It should be presented on as many sheets as are necessary to make the information clear and legible. Site Plans shall be drawn to scale. The PUC Project Site Plan, which is a required document of the application, and which is identified as a Construction Drawing in the application, may be incorporated into the Site Plan.
 - ii) For Solar installations of more than 50 kW, or for combined installations of more than 50 kW, a Survey Plat is required. A Survey Plat is a map drawn to scale by a licensed land surveyor showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Plats shall be on 18 inch by 24 inch sheets of paper.
- e) The application Site plans and survey plats shall contain the following information:

- i) Names and addresses of the owner(s) and/or their agent.
- ii) Names of the owners of contiguous properties. For these Regulations contiguous property means property adjacent to any and all sides of the specified property to include property separated by roads or deeded rights of way.
- iii) Date, north arrow and scale (numeric and graphic).
- iv) Property lines, with rough dimensions, and the area of the subject parcel.
- v) Proposed name or identifying title of parcel(s) and name of the Town.
- vi) Vicinity map, which is a map inset that shows the location of the subject property on the island.
- vii) Significant features such as the location of wetlands, streams, etc.
- viii) Existing and proposed structures (indicating type), public roads, deeded rights-of-way, wells, septic systems, etc. and their size, type and location relative to the property lines.
- ix) Existing permitted conditional uses and structures, including reference of pre-existing uses and reference to conditional uses, including the dates of the conditional use permit/s.
- x) The approximate location on the property of the proposed facility, the dimensions, including the height of the array relative to land contours, and the area to be used for screening, if any.
- xi) The zoning district in which the development is proposed.
- xii) Parking and circulation, including access to roads.
- xiii) The location of all exterior storage areas for material, machinery, and/or vehicles.
- xiv) Lighting fixtures above six feet, or with upwards illumination, or onto adjacent properties, roads, or public waters.
- xv) Any fuel or hazardous waste storage areas.
- f) A schedule for the installation of proposed screening, as applicable, includes a date when the screening shall be estimated to fulfill its minimum function.
- g) Application materials prepared as part of the petition to the Vermont Public Utility Commission may be used for application under this bylaw provided that they provide all the information required by this section.

7) Public Hearing Notice Requirements.

- a) A public hearing in accordance with Section 4463(a) and 4464(a) of the Act is required before the Planning Commission may issue any recommendation. Notice for public hearings shall be given not less than 15 days prior to the date of the public hearing in the following ways.
 - i) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the Town of North Hero and posting of the same information in three or more public places within the Town in conformance with location requirements of 1 V.S.A. § 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

- ii) Written notification shall be made to the applicant and to owners of all properties adjoining the property subject to development. Adjoining properties include those that are divided by a highway or other public right-of-way. Written notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained.
- b) All public notices and notifications will be created by the Town of North Hero. Town personnel will be responsible for all public notice postings and mailings.
- c) Written notification to the applicant and abutters shall be completed by the Town of North Hero.
- d) If a hearing is adjourned, postponed or continued with no date certain, or if a hearing date is changed, the hearing will be re-warned and reconvened with full notice of the hearing according to 1 V.S.A. § 312(c)(2).

8) Application Procedure.

a) Applications to be heard by the Planning Commission with Review by the Select Board.

The Planning Commission will conduct a hearing and finding of fact for the application request and forward a recommendation to the Select Board.

The Select Board shall review the recommendation of the Planning Commission and decide if the Select Board will make a request for an appearance to the PSB on behalf of the Town concerning screening.

b) At the Public Hearing, the Planning Commission shall review the sole issue of screening of the solar facility.

- i) For the purposes of these hearings, members of the Development Review Board may act as alternate members of the Planning Commission.
- ii) Witnesses will be sworn in, testimony, application materials, exhibits, and fact findings shall be considered.
- iii) The hearing shall be limited solely to the issue of screening GMSP.
- iv) The Planning Commission may close the hearing to additional public comments hearing to consider if a recommendation will be made and to provide findings to support a recommendation. If the Planning Commission feels that additional testimony is needed, they may re-open the hearing for further public comment.
- v) The Planning Commission may continue a hearing on any application pending the submission of additional information affecting the review, provided that the next hearing date, time, and place are announced at the hearing. If a hearing is adjourned, postponed or continued with no date certain, or if a hearing date is changed, the hearing will be reconvened with full notice of the hearing according to 7(D) above.
- vi) The Planning Commission may issue a finding that a particular testimony, activity or development may not be within the purview of this Bylaw. They may refer the question to the Zoning Administrator, as an

addendum to their recommendation to the Select Board, or for disposition by the PUC.

- vii) The Planning Commission shall prepare a written recommendation for Select Board consideration and action. The Planning Commission recommendation shall include: application materials, a list of hearing dates, additional submissions taken into evidence including exhibits, a summary of testimony, and any findings of fact used in developing a recommendation. A copy of the complete application for a GMSP shall be included.
 - viii) A recommendation shall be considered in an open meeting.
 - ix) Action shall be by the majority of the Commission. After a vote on its recommendation, The Planning Commission shall recess the hearing.
 - x) Within 30 days of the recess of the hearing, the Planning Commission recommendation shall be forwarded to the Select Board to continue the process of the application and the Select Board for their consideration of the Planning Commission recommendation.
 - xi) A copy of that recommendation and the date at which the Select Board will consider the recommendation, shall be sent to the Applicant by certified mail.
 - xii) Copies of the Planning Commission recommendation and the date of the Select Board hearing shall also be mailed to every person or body appearing and having been heard as an interested party at the hearing.
- c) Concluding Review before the Select Board.**
The Select Board will review the recommendation.
- i) The Select Board may choose to accept, amend, or decline to request an appearance at the Public Utility Commission proceedings as part of a warned agenda.
 - ii) If the Select Board requests additional testimony, evidence, or information, the application shall be referred back to the Planning Commission. If no date is set for the Planning Commission's continuation of the hearing, a new date will be re-warned.
 - iii) The decision to request an appearance by the Select Board on the Recommendation shall be sent to the PUC by certified mail.
 - iv) The Applicant will receive a copy of the Select Boards' action by certified mail.
 - v) Copies of the decision to request an appearance shall also be mailed to every person or body appearing and having been heard as an interested party.

9) Screening Standards.

If screening of the GMSP is to be recommended, the Planning Commission shall consider:

- a) The location, scale, type, density, and intensity of the proposed development in relation to the character of the area likely to be affected by the proposed development, as defined by the purpose(s) of the zoning district(s) within which the project is located and specifically stated in the

North Hero Development Regulations included herein, and polices and standards of the North Hero Town Plan. (referenced North Hero Development Regulations, August 26, 2014, Sections: 6.1, 7.3)

- b) Adequacy of landscaping and screening on the site.
- c) Landscaping and screening as proposed to ensure the development fits in with its surroundings.
- d) Other than the solar installation, outdoor storage of or work associated with goods, parts, supplies, vehicles or machinery is inside a building or behind screening.
- e) Landscaping, screening, and/or setbacks as appropriate if the development on a lot which includes mixed uses and/or more than one principal use per lot.
- f) Development on neighboring properties, particularly dwellings and established dwelling lots as a factor in character of the area.
- g) Siting to maintain the character of the area, with consideration of open agricultural land, views of Lake Champlain, the Adirondacks and the Green Mountains in consideration of landscaping.
- h) Standards and conditions emphasize considerations to identify, avoid, and/or mitigate off-site impacts of a proposed project, in addition to those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.

10) Screening Recommendations.

If the Planning Commission decides to recommend screening in the form of landscaping or other appropriate methods to ensure the GMSP fits in with its surroundings according to the following standards for recommendation, the Planning Commission may:

- a) Recommend size, variety, number and location of trees, green space, other buffer yards, and non-vegetative screening from public streets and/or adjoining properties.
- b) Consider existing trees, shrubs, evergreens and other plant material to be preserved on the site. Particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site.
- c) Encourage native plantings over the use of non-native plantings. Invasive species shall not be recommended.
- d) Recommend an installation schedule and the requirement to ensure maintenance.

11) Definitions.

- a) Ground Mounted Solar Electricity Generation Plant: An independent technical facility that generates electricity from the sun. A group of newly constructed facilities shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, or connections to the electric grid.
- b) Screening: Reasonable aesthetic mitigation measures to harmonize a facility with its surroundings, including landscaping, vegetation, fencing, and topographic features.

12) Severability.

If any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

APPENDICES

Public Utility Commission References:

PUC Net Metering Application Form-

http://puc.vermont.gov/sites/psbnew/files/doc_library/NMApplicationForm2017%20FINAL%2010-10-17%20clean.pdf

PUC Requirements For Petitions To Construct Electric And Gas Facilities Pursuant To 30 V.S.A. § 248; Rule 5.400-

http://puc.vermont.gov/sites/psbnew/files/doc_library/Rule%205.400%20Amdt%20Adopted_0.pdf

PUC Requirements Related To The Installation And Maintenance Of Aesthetic Mitigation Measures; Rule 5.800-

http://puc.vermont.gov/sites/psbnew/files/doc_library/Adopted%20Aesthetic%20Mitigation%20Rule.pdf

Vermont Statutory References:

24 V.S.A. § 4414 Municipal and County Government Ch.117

30 V.S.A. § 248(s)