

1 **North Hero Bylaw Screening Standards for Ground-Mounted Solar**
2 **Electricity Generation Plants (GMSP)**
3

4 **1) Authority.**

- 5 a) This bylaw is adopted by the Town of North Hero under the authority of Title
6 24, Chapter 117 §4414(15) to adopt screening standards for Ground
7 Mounted Solar Electricity Generation Plants (GMSP).
8 b) The screening requirements in this bylaw are not intended to be more
9 restrictive than screening requirements applied to commercial development
10 in the North Hero Development Regulations. (see T.24 § 4414 Municipal
11 and County Government Ch.117 (A), and North Hero Development
12 Regulations, August 26, 2014 for referenced Bylaw standards)
13 c) The North Hero Select Board is hereby designated as the municipal body to
14 make recommendations to the Public Utility Commission applying this Bylaw
15 to ground-mounted solar electricity generation plants (GMSP).
16

17 **2) Purpose.**

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

- 20 a) Encourage development of renewable resources.
21 b) Promote increased awareness and use of renewable energy resources as
22 well as the conservation of existing energy resources.
23 c) Support efforts to implement renewable energy, including incorporating
24 renewable energy in all new construction of Town buildings and the review
25 of utilizing town properties and buildings, such as the maintenance building
26 for renewable, particularly solar, installations.
27 d) Ensure that the development of GMSPs are harmonized with their
28 surrounding landscape through the implementation of appropriate
29 screening.
30

31 **3) Applicability.**

- 32 a) The requirements of this bylaw shall apply to all land in the Town of North
33 Hero, regardless of zoning district.
34 b) This bylaw shall apply to GMSPs that are greater than 15kW. GMSPs
35 15kW and less are exempt from this Bylaw.
36 c) Except the GMSP and related development required by the PUC, the
37 provisions of this bylaw shall not exempt either ancillary, related or
38 additional non-solar development, such as roads, on the same site from
39 North Hero zoning. Development or permits for such use shall be by
40 separate application under provisions of North Hero Development
41 Regulations.
42

43 **4) Fees.**

44 The Select Board will establish fees for Planning Commission review under this
45 bylaw. Such fee(s) shall include the costs of public notice, public hearings, and

1 site visits. Fees must be paid for applications to be considered complete. Fees
2 are non-refundable.
3

4 **5) Application Filing and Scheduling a Public Hearing.**

- 5 a) Petitioners seeking approval of a GMSP under Title 30, Chapter 5 §248
6 shall send a Notice of Filing a Certificate of Public Good and/or the full
7 Petition for a Certificate of Public Good if a notice is not required by certified
8 letter to the Zoning Administrator, Town of North Hero, PO Box 38, North
9 Hero, VT 05474, or hand delivered to the Town Clerk.
- 10 b) Upon receipt of a petitioner's Notice of Filing for a Certificate of Public
11 Good, or for smaller net-metered projects receipt of a copy of a petition for a
12 Certificate of Public Good, the Zoning Administrator shall provide the
13 petitioner with a copy of this bylaw and written notification that the Planning
14 Commission is required to hold a duly warned public hearing (per the
15 requirements of Title 24, Chapter 117 §4464(a)(2)) to hear testimony on
16 compliance to the standards in this bylaw within 30 days of receipt of a
17 complete application.
- 18 c) The public hearing shall be scheduled by the Zoning Administrator. Upon
19 request and at the discretion of the Zoning Administrator, an applicant under
20 this bylaw may request an extension to the 30 day public hearing deadline
21 should there be delays in the Certificate of Public Good review and issuance
22 process.
- 23 d) Prior to filing a petition for a Certificate of Public Good or giving notice of
24 filing, an applicant may contact the North Hero Zoning Administrator and
25 submit an application to be scheduled for a public hearing before the
26 Planning Commission at any time.
27

28 **6) Application Materials.**

- 29 A complete application shall include, (referenced North Hero Development
30 Regulations, August 26, 2014, Section: 6.5):
- 31 a) The Town of North Hero GMSP Screening Application Form;
32 b) The application fee;
33 c) Petitioners seeking approval of a GMSP shall provide the following PUC
34 documents as part of this application: Net Metering Application Form, PUC
35 Project Site Plan Construction Drawing, and the applicant's Aesthetic
36 Mitigation Plan.
- 37 d) Either a site plan or survey plat is required.
- 38 i) A Site Plan is a detailed illustration of the proposed solar installation of
39 15 kW to 50 kW. It should be presented on as many sheets as are
40 necessary to make the information clear and legible. Site Plans shall be
41 drawn to scale. The PUC Project Site Plan, which is a required
42 document of the application, and which is identified as a Construction
43 Drawing in the application, may be incorporated into the Site Plan.
- 44 ii) For Solar installations of more than 50 kW, or for combined installations
45 of more than 50 kW, a Survey Plat is required. A Survey Plat is a map
46 drawn to scale by a licensed land surveyor showing, but not limited to,

- 1 boundaries, corners, markers, monuments, easements and other rights.
2 Plats shall be on 18 inch by 24 inch sheets of paper.
- 3 e) The application Site plans and survey plats shall contain the following
4 information:
- 5 i) Names and addresses of the owner(s) and/or their agent.
6 ii) Names of the owners of contiguous properties. For these Regulations
7 contiguous property means property adjacent to any and all sides of the
8 specified property to include property separated by roads or deeded
9 rights of way.
10 iii) Date, north arrow and scale (numeric and graphic).
11 iv) Property lines, with rough dimensions, and the area of the subject
12 parcel.
13 v) Proposed name or identifying title of parcel(s) and name of the Town.
14 vi) Vicinity map, which is a map inset that shows the location of the subject
15 property on the island.
16 vii) Significant features such as the location of wetlands, streams, etc.
17 viii) Existing and proposed structures (indicating type), public roads, deeded
18 rights-of-way, wells, septic systems, etc. and their size, type and location
19 relative to the property lines.
20 ix) Existing permitted conditional uses and structures, including reference of
21 pre-existing uses and reference to conditional uses, including the dates
22 of the conditional use permit/s.
23 x) The approximate location on the property of the proposed facility, the
24 dimensions, including the height of the array relative to land contours,
25 and the area to be used for screening, if any.
26 xi) The zoning district in which the development is proposed.
27 xii) Parking and circulation, including access to roads.
28 xiii) The location of all exterior storage areas for material, machinery, and/or
29 vehicles.
30 xiv) Lighting fixtures above six feet, or with upwards illumination, or onto
31 adjacent properties, roads, or public waters.
32 xv) Any fuel or hazardous waste storage areas.
- 33 f) A schedule for the installation of proposed screening, as applicable,
34 includes a date when the screening shall be estimated to fulfill its minimum
35 function.
- 36 g) Application materials prepared as part of the petition to the Vermont Public
37 Utility Commission may be used for application under this bylaw provided
38 that they provide all the information required by this section.
39
- 40 **7) Public Hearing Notice Requirements.**
- 41 a) A public hearing in accordance with Section 4463(a) and 4464(a) of the Act
42 is required before the Planning Commission may issue any
43 recommendation. Notice for public hearings shall be given not less than 15
44 days prior to the date of the public hearing in the following ways.
- 45 i) Publication of the date, place, and purpose of the hearing in a newspaper
46 of general circulation in the Town of North Hero and posting of the same

- 1 information in three or more public places within the Town in conformance
2 with location requirements of 1 V.S.A. § 312(c)(2), including posting within
3 view from the public right-of-way most nearly adjacent to the property for
4 which an application is made.
- 5 ii) Written notification shall be made to the applicant and to owners of all
6 properties adjoining the property subject to development. Adjoining
7 properties include those that are divided by a highway or other public
8 right-of-way. Written notification shall include a description of the
9 proposed project and shall be accompanied by information that clearly
10 informs the recipient where additional information may be obtained.
- 11 b) All public notices and notifications will be created by the Town of North
12 Hero. Town personnel will be responsible for all public notice postings and
13 mailings.
- 14 c) Written notification to the applicant and abutters shall be completed by the
15 Town of North Hero.
- 16 d) If a hearing is adjourned, postponed or continued with no date certain, or if a
17 hearing date is changed, the hearing will be re-warned and reconvened with
18 full notice of the hearing according to 1 V.S.A. § 312(c)(2).
- 19

20 **8) Application Procedure.**

21 a) **Applications to be Heard by the Planning Commission with Review by**
22 **the Select Board.**

23 The Planning Commission will conduct a hearing and finding of fact for the
24 application request and forward a recommendation to the Select Board.
25 The Select Board shall review the recommendation of the Planning
26 Commission and decide if the Select Board will make a request for an
27 appearance to the PSB on behalf of the Town concerning screening.

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

- 30 i) For the purposes of these hearings, members of the Development
31 Review Board may act as alternate members of the Planning
32 Commission.
- 33 ii) Witnesses will be sworn in, testimony, application materials, exhibits,
34 and fact findings shall be considered.
- 35 iii) The hearing shall be limited solely to the issue of screening GMSP.
- 36 iv) The Planning Commission may close the hearing to additional public
37 comments hearing to consider if a recommendation will be made and to
38 provide findings to support a recommendation. If the Planning
39 Commission feels that additional testimony is needed, they may re-open
40 the hearing for further public comment.
- 41 v) The Planning Commission may continue a hearing on any application
42 pending the submission of additional information affecting the review,
43 provided that the next hearing date, time, and place are announced at
44 the hearing. If a hearing is adjourned, postponed or continued with no
45 date certain, or if a hearing date is changed, the hearing will be
46 reconvened with full notice of the hearing according to 7(D) above.

- 1 vi) The Planning Commission may issue a finding that a particular
2 testimony, activity or development may not be within the purview of this
3 Bylaw. They may refer the question to the Zoning Administrator, as an
4 addendum to their recommendation to the Select Board, or for
5 disposition by the PUC.
- 6 vii) The Planning Commission shall prepare a written recommendation for
7 Select Board consideration and action. The Planning Commission
8 recommendation shall include: application materials, a list of hearing
9 dates, additional submissions taken into evidence including exhibits, a
10 summary of testimony, and any findings of fact used in developing a
11 recommendation. A copy of the complete application for a GMSP shall
12 be included.
- 13 viii) A recommendation shall be considered in an open meeting.
- 14 ix) Action shall be by the majority of the Commission. After a vote on its
15 recommendation, The Planning Commission shall recess the hearing.
- 16 x) Within 30 days of the recess of the hearing, the Planning Commission
17 recommendation shall be forwarded to the Select Board to continue the
18 process of the application and the Select Board for their consideration of
19 the Planning Commission recommendation.
- 20 xi) A copy of that recommendation and the date at which the Select Board
21 will consider the recommendation, shall be sent to the Applicant by
22 certified mail.
- 23 xii) Copies of the Planning Commission recommendation and the date of the
24 Select Board hearing shall also be mailed to every person or body
25 appearing and having been heard as an interested party at the hearing.
- 26 **c) Concluding Review before the Select Board.**
- 27 The Select Board will review the recommendation.
- 28 i) The Select Board may choose to accept, amend, or decline to request
29 an appearance at the Public Utility Commission proceedings as part of a
30 warned agenda.
- 31 ii) If the Select Board requests additional testimony, evidence, or
32 information, the application shall be referred back to the Planning
33 Commission. If no date is set for the Planning Commission's
34 continuation of the hearing, a new date will be re-warned.
- 35 iii) The decision to request an appearance by the Select Board on the
36 Recommendation shall be sent to the PUC by certified mail.
- 37 iv) The Applicant will receive a copy of the Select Boards' action by certified
38 mail.
- 39 v) Copies of the decision to request an appearance shall also be mailed to
40 every person or body appearing and having been heard as an interested
41 party.

42
43 **9) Screening Standards.**

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

- 1 a) The location, scale, type, density, and intensity of the proposed
2 development in relation to the character of the area likely to be affected by
3 the proposed development, as defined by the purpose(s) of the zoning
4 district(s) within which the project is located and specifically stated in the
5 North Hero Development Regulations included herein, and polices and
6 standards of the North Hero Town Plan. (referenced North Hero
7 Development Regulations, August 26, 2014, Sections: 6.1, 7.3)
- 8 b) Adequacy of landscaping and screening on the site.
- 9 c) Landscaping and screening as proposed to ensure the development fits in
10 with its surroundings.
- 11 d) Other than the solar installation, outdoor storage of or work associated with
12 goods, parts, supplies, vehicles or machinery is inside a building or behind
13 screening.
- 14 e) Landscaping, screening, and/or setbacks as appropriate if the development
15 on a lot which includes mixed uses and/or more than one principal use per
16 lot.
- 17 f) Development on neighboring properties, particularly dwellings and
18 established dwelling lots as a factor in character of the area.
- 19 g) Siting to maintain the character of the area, with consideration of open
20 agricultural land, views of Lake Champlain, the Adirondacks and the Green
21 Mountains in consideration of landscaping.
- 22 h) Standards and conditions emphasize considerations to identify, avoid,
23 and/or mitigate off-site impacts of a proposed project, in addition to those
24 considerations related to internal layout of the site, its physical design and
25 appearance as viewed from off-site, and the functional integration of the site
26 with surrounding properties and uses.

27
28 **10) Screening Recommendations.**

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

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

- 1 d) Recommend an installation schedule and the requirement to ensure
2 maintenance.
3

4 **11) Definitions.**

- 5 a) Ground Mounted Solar Electricity Generation Plant: An independent
6 technical facility that generates electricity from the sun. A group of newly
7 constructed facilities shall be considered one plant if the group is part of the
8 same project and uses common equipment and infrastructure such as
9 roads, control facilities, or connections to the electric grid.
10 b) Screening: Reasonable aesthetic mitigation measures to harmonize a
11 facility with its surroundings, including landscaping, vegetation, fencing, and
12 topographic features.
13

14 **12) Severability.**

15 If any section of this bylaw is held by a court of competent jurisdiction to be
16 invalid, such finding shall not invalidate any other part of this bylaw.
17
18

19 **APPENDICES**

20
21 **Public Utility Commission References:**

22
23 **PUC Net Metering Application Form-**

24 [http://puc.vermont.gov/sites/psbnew/files/doc_library/NMApplicationForm2017%20FI
25 NAL%2010-10-17%20clean.pdf](http://puc.vermont.gov/sites/psbnew/files/doc_library/NMApplicationForm2017%20FINAL%2010-10-17%20clean.pdf)
26

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

29 [http://puc.vermont.gov/sites/psbnew/files/doc_library/Rule%205.400%20Amdt%20A
30 dopted_0.pdf](http://puc.vermont.gov/sites/psbnew/files/doc_library/Rule%205.400%20Amdt%20Adopted_0.pdf)

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

33 [http://puc.vermont.gov/sites/psbnew/files/doc_library/Adopted%20Aesthetic%20Mitig
34 ation%20Rule.pdf](http://puc.vermont.gov/sites/psbnew/files/doc_library/Adopted%20Aesthetic%20Mitigation%20Rule.pdf)
35

36 **Vermont Statutory References:**
37

38 **24 V.S.A. § 4414 Municipal and County Government Ch.117**

39
40 **30 V.S.A. § 248(s)**