

## **22.50 Large-Scale Solar Photovoltaic Installations**

### **1.1 Purpose**

The purpose of this by-law is to regulate the installation of solar photovoltaic installations that are to produce 200 kW or greater by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to ensure provision of adequate financial assurance for the eventual decommissioning and removal of such installations.

### **1.2 Applicability**

This section applies to solar photovoltaic installations that have a minimum nameplate capacity, of 200 kW or greater.

Large-scale ground mounted solar installations are not permitted in the Limited Commercial District and the Historic District. All other ground mounted solar installations in the Limited Commercial District and the Historic District require Site Plan Review.

Within the Agricultural Residential District, Large-Scale ground mounted solar installations are not permitted within 300 feet of a way (as defined in G.L. Ch. 90, Section 1), unless existing topographic features of the landscape preclude observation of the entire solar installation from any portion of the way. Side and rear setback shall be 100 feet.

*(Amended: Article 18, June 13, 2016, Annual Town Meeting)*

*(Amended: Article 26, May 21, 2018 Annual Town Meeting)*

### **1.3 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all solar photovoltaic installations per §1.2 above shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements. All associated buildings and fixtures forming part of such an installation shall be constructed in accordance with the State Building Code and local codes. No such installation shall be constructed, installed or modified without first obtaining the necessary building permit(s).

### **1.4 Special Permit Approval**

All solar photovoltaic installations per §1.2 above shall require Special Permit approval from the Planning Board pursuant to M.G.L. Chapter 40A, §9.

### **1.5 Pre-Submission Conference and Informal Meeting with the Planning Board**

Prior to submitting an application for a Special Permit, the applicant shall meet informally with a technical review committee consisting of the following Town

staff members: Town Planner, Conservation Agent, Highway Surveyor, Board of Health Agent, Police Chief, Fire Chief and Building Commissioner or their representatives. The purpose of the meeting is to review the applicant's conceptual plan and provide preliminary comments prior to the applicant incurring significant engineering design expense. This step is intended to expedite the review and permitting processes. The applicant shall request such a meeting through the Town Planner.

The applicant shall then meet with the Planning Board at a regularly-scheduled public meeting to review the information the applicant must submit and determine the required minimum Special Permit Review fee. The Planning Board shall advise the applicant in writing of the amount of the application fee and minimum Special Permit Review fee and any exceptions with respect to the Special Permit details within 20 days following the pre-submission meeting. Any technical services required to assist the Planning Board in preparing its written response shall be included as part of the application fee. At this meeting, the applicant shall also submit a list of requested waivers, if applicable.

- 1.6 An applicant for Special Permit Approval shall file an application and site plan accompanied by 15 copies of the Plan and any supporting reports and the application fee and minimum Special permit fee as required by the Planning Board. The Town Planner shall then review the submitted materials to confirm that the application is complete pursuant to the submission requirements in this section. The Town Planner shall complete the review of the application within 10 business days, or the application will be considered to be complete. Such application and site plan shall include the elements on which the Planning Board is to make findings and determinations as provided in this section and shall also include in format as to the nature and extent of the proposed use structures and such further information as the Planning Board shall reasonably require by rule or regulation.

#### **1.7 Referrals to Town Boards / Commissions**

The Planning Board shall, within five (5) business days of receipt of the site plan application, transmit a copy of the application and site plan to each of the following Town committees, departments, commissions and boards for review and comment: Conservation Commission; Board of Health; Building Commissioner, Highway Surveyor; Fire Chief, and Police Chief. Other committees, departments and commissions may be requested to review site plan applications and site plans if the planning board feels such review will help in their deliberations.

The Conservation Commission and other agencies designated by the Planning Board shall consider the same and submit a final report thereon with recommendations to the Planning Board. The Conservation Commission shall

review the application with particular reference to the Wetlands Protection Act and the Rochester Wetlands By-Law (§ XV of the Zoning By-Law) and shall recommend as to the advisability of granting the site plan approval and as to the restrictions which should be imposed upon the development as a condition of such permit.

The Planning Board shall not make a finding and determination upon an application until it has received the final report of the Conservation Commission and/or other agencies designated by the Planning Board thereon, or until 21 days shall have elapsed since the transmittal of said copies of the application and site plan to the Conservation Commission and other agencies designated by the Planning Board without such report being submitted. Failure of a commission or agency to report within the allotted time shall be interpreted as non-opposition to the submitted Site Plan.

### **1.8 Site Plan Details**

Except where waived by the Planning Board because of unusually simple circumstances, any site plan shall be prepared by a licensed engineer, landscape architect or architect for general locations, topographical and boundary survey information on the site plan shall be signed and sealed by a licensed land surveyor, and all elements of design, which shall include drainage, pavements, curbing, walkways, embankments, horizontal and vertical geometrics, utilities and all pertinent structures,

The Planning Board may, after taking into consideration the size and impact of the proposed project, waive any of the requirements in this section. The following information shall be submitted on one or more site maps and in writing where appropriate.

#### General Information

1. Date of site plan. All revisions shall be noted and dated.
2. Title of development, north arrow, scale, Assessor's map and lot number, name and address of record owner, name and address and certificate of agency if applicant is not owner, and name, address, license number and seal of person preparing the site plan. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.
3. A scale of 1"= 20', 1"= 40', or 1"= 60', whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to nearest 10 seconds. The error of closure shall not exceed one (1) in 10,000.
4. Key map showing the location of the tract with reference to surrounding areas and existing street intersections.
5. The names of all owners of record of all abutting properties and those within 300 feet of the property line.

6. Zone boundaries and Overlay Districts shall be shown on the site plan as they affect the parcel. Adjacent zone districts or Overlay Districts within 300 feet also shall be indicated. Such features shall be shown on a separate map or as a key map on the detail map itself.
7. Boundaries of the property lines and lines of streets, lot reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.
8. All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.
9. Existing contours with intervals of two (2) feet where slopes are more than three percent but less than 15%, and five (5) feet when 15% or more, referred to US Coast and Geodetic datum, are to be indicated by a dashed line. Where any changes in the contours are proposed, finished grades should be shown as solid lines.
10. If any areas fall within the 100-year flood plain as delineated on the Flood Insurance Rate Maps for the Town of Rochester, the area will be shown and base elevations shown.
11. The location of the consecutively numbered flags denoting wetland resources shall be shown on the plan.
12. Location of existing rock outcrops, general soil types (including limitations as noted in "Soils and their interpretations for Various Land Uses" as prepared by the U. S. Department of Agriculture), high points, vistas, watercourses, depressions, ponds, marshes, wetlands, flood plain designations as shown on the Flood Insurance Rate Maps for the Town of Rochester, wooded areas and major trees (12" caliper or over) and other significant existing features including previous flood elevations of watercourses, pond and marsh areas as determined by survey.
13. Location of existing buildings, which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. with spot elevations of such structures. Structures to be removed shall be indicated in dashed lines.
14. All structures or significant changes in topography within 50 feet of the property lines.
15. All stone walls, farm and woods roads.
16. All calculations necessary to determine conformance to by-law regulations.
17. Acreage of tract to nearest 1/10 of an acre.
18. Place for signature of the Planning Board on all plans and/or documents to be approved by the Planning Board.
19. Such other information as may be required to show that the details of the site plan are in accordance with applicable standards of the Zoning By-Law.

### Buildings and Stationary Equipment

1. The proposed uses of land, buildings and stationary equipment and proposed location of buildings and stationary equipment including proposed grades.
2. Such features shall be shown on a separate drawing where deemed appropriate by the Building Inspector.
3. The Gross Floor Area (GFA) of all buildings also shall be indicated.
4. Layout of proposed buildings or structures, including elevations plan and measurements as appropriate for easy interpretation. The type and color of materials to be used shall be indicated.
5. The location, type and screening details for all waste disposal containers shall be shown.
6. Sketches, as appropriate to indicate the visual impact on the surrounding area and the community as a whole.
7. Location of signs.
8. Height of panels and associated structures, including their relationship to the existing and proposed grades.

### Landscaping

1. A landscape plan prepared by a certified Landscape Architect showing all existing natural features, trees, forest and water resources and proposed changes to these features including the size and type of plant material. Water resources include any ponds, lakes, brooks, streams, wetlands, certified vernal pools, floodplains and drainage detention/retention areas. The plan should include the type and extent of groundcover being proposed beneath the solar array.
2. Landscape Maintenance Plan that details the process by which plants and materials are to be maintained and replaced, when necessary.
3. The site plan shall minimize the number of removed trees 12" caliper or larger.  
*(Amended: Article 17, June 13, 2016 Annual Town Meeting)*

### Utilities and Drainage

1. Location of all existing storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, and if any existing utility lines are underground, the estimated location of any said underground utility lines shall be shown.
2. The location of all proposed water lines, valves or hydrants and all sewer lines or alternative means of water supply of wastewater disposal and treatment in conformance with the applicable standards of the Town of Rochester and for the appropriate utility.
3. The location of the groundwater table in the vicinity of any proposed septic field, leaching catch basin, or drainage detention/retention area.

4. Proposed storm water management proposals shall conform to the Storm Water Management section of the Planning Board Rules & Regulations. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.
5. Plans to prevent the pollution of surface or groundwater, erosion of soil during and after construction; excessive runoff, excessive raising or lowering of the water table; and the flooding of other properties, as applicable.
6. The proposed location, height, direction of illumination, bulb type, power and time of proposed outdoor lighting and methods to eliminate sky glare and glare onto adjoining properties must be shown.
7. The Planning Board may require analysis in comparison with a specified alternative where warranted by large or complex applications.
8. All utilities with the exception of lighting fixtures, transformers and telephone/cable pedestals shall be placed underground.

#### Vehicular and Emergency Access

1. The site plan shall show provision of adequate vehicular access among the solar panels as well as around the perimeter of the array for the purposes of proper maintenance and repair as well as access for emergency vehicles subject to approval of the Rochester Fire Department.
2. The applicant shall provide information for adjacent roadways in the area of the proposed project to include accident data for the previous three (3) years, sight distances, roadway conditions, existing traffic volumes and site-generated traffic.

#### Open Space – Maintenance

1. The location and size of common open space and the form of organization proposed to own and maintain such common open space.
2. A copy of any covenants, deed restrictions or exceptions that are intended to cover all or any part of the tract.
3. All proposed easements.
4. The proposed screening, landscaping and planting plan, including details of types of planting.
5. A survey prepared by a licensed surveyor of the Commonwealth of Massachusetts shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation and conservation areas and other property to be dedicated to public use.
6. Adequate provision shall be provided for snow removal and positioning of snow mounds during snow removal as specified by the Highway Surveyor as approved by the Planning Board.

### Decommissioning, Removal and Surety

1. The applicant shall provide an annual energy output summary to the Planning Board to verify consistent use of the facility.
2. The applicant shall provide a form of surety acceptable to the Planning Board sufficient to fund costs related to the potential decommissioning and removal of the facility as well as restoration of the site.
3. The decommissioning, removal and restoration process will be initiated if it is found that the facility has fallen into disuse and is not being properly maintained in compliance with the approved Landscape Maintenance Plan.
4. The applicant shall provide a plan that details the measures that will be taken to restore the site to its previous condition to the fullest extent possible.

### **1.9 Special Provisions for Phased Developments**

In the case of plans which call for development over a period of years, a schedule shall be included in the application showing the proposed times within which each section of the development may be started. The proponents of a phased development shall include assurances that each phase could be brought to completion in a manner, which would not result in an adverse effect upon the Town as a result of termination at that point. All site plans previously approved by the Planning Board shall be submitted each time a new plan or section is submitted for approval.

### **1.10 Landscaping, Screening and Drainage**

- (1) All landscaped areas and plants required by the Planning Board in connection with any permit issued or site plan review must be permanently maintained in a healthy growing condition in order to accomplish the purpose for which they were required.
- (2) The owners, their agents and assigns are responsible for providing, protecting, and maintaining all landscaping material in a healthy and growing condition, replacing it when necessary, and keeping it free of refuse and debris.
- (3) Dead or diseased plants must be replaced within 30 days of notification, or as soon as practical in regard to weather, or complex situations involving the removal and replacement of large trees.
- (4) Plant material must not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard.
- (5) All fencing, walls and other features used for screening purposes shall be kept in good repair and free of litter and debris.
- (6) All drainage systems must be kept in working order.

## (7) Maintenance Plan

A Maintenance Plan shall be submitted by the applicant for the continuing maintenance of all required plantings, fencing, walls and/or drainage system, including a schedule of specific maintenance activities to be conducted. A Maintenance Plan narrative shall also be included on the site plans in note form. Maintenance of the required landscaping, fencing and/or drainage shall be a continuing condition of any approval that may be granted. A cost estimate for required maintenance shall be presented as part of any application and a 5-year maintenance bond, in an amount and form approved by Town Counsel and the Planning Board shall be a condition of approval.

## (8) Continuing Maintenance

The applicant and its successors and assigns shall be responsible for the ongoing maintenance of the landscaping, screening and/or drainage required as a condition of approval and as outlined in the Maintenance Plan. If it becomes necessary, after notice as required above, for the Town to take action in removal and/or replacement of required landscaping, screening and/or drainage system, the property owner will be billed for all costs associated with the removal and/or replacement. Any unpaid amounts so billed shall constitute a lien on the property in question and will be collected as such.

*(Amended: Article 21, June 13, 2016, Annual Town Meeting)*

### 1.11 Endorsement of Site Plan

After approval by the Planning Board and subject to the satisfaction of any conditions of approval, a mylar or linen print of all approved site plan maps shall be submitted for signature and filing; all information thereon shall be in black India ink.

### 1.12 Application Fee and Special Permit Review Fee

The application fee is specified in § 6.1 of the Planning Board Subdivision Rules & Regulations. A minimum Special Permit Review fee deposit shall be submitted in check form and made out to the Town of Rochester. The amount of this minimum review fee shall be the sum of estimates from the professional services noted in Paragraph 1.12 below, which the Planning Board expects to use in the Special Permit review and evaluation process as established in the Pre-Submission Conference specified in paragraph 1.5 of this By-Law. The Special Permit review fee system is intended to encourage applicants to submit complete, accurate and thorough applications. Such applications generally cost less to review.



### **1.13 Minimum Review Fee Deposit**

A minimum Special Permit Review fee shall be submitted at the same time the application and site plan is submitted to the Planning Board. The minimum review fee deposit shall be submitted in check form and made out to the Town of Rochester. If prior to action on the application, the Planning Board finds that the amount of the deposit is not sufficient to cover the actual costs incurred by the Town in its review of the application, the applicant shall be required, upon written notice to submit forthwith to cover such costs. The Planning Board shall notify the applicant of such additional amounts in writing by certified mail. Failure to submit such additional amounts shall be deemed a violation of these regulations and shall be deemed reason to deny approval of the application. If the actual cost(s) incurred by the Town or Planning Board for the review of the application is less than the amount of the deposit, the Planning Board shall authorize that such excess amount be refunded to the applicant concurrently with Planning Board action on the Special Permit application.

### **1.14 Costs Covered by the Fee**

The review fee shall be applied to all costs associated with the proper review and administration of the site plan application including, but not limited to, engineering and other land-use consultants, legal advice, staff time in administration and review of the application, costs for legal notices, advertising costs, and public hearing costs.

The Planning Board is authorized to retain professional planners; registered professional engineers, architects, or landscape architects; attorneys or other professional consultants to advise the Board on any and all aspects of the site plan. The cost of the advice shall be borne by the applicant. Retention by the Board of outside consultants in connection with review under this By-Law shall be in accordance with the provisions of Massachusetts General Laws, Chapter 44, §53C.

### **1.15 Criteria**

Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal.
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;

5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

#### **1.16 Severability**

If any part of this By-Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-Law. The Town of Rochester hereby declares the provisions of this By-Law to be severable.