Town of Oak Bluffs, Massachusetts
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Colleen E. Morris
Town Clerk

ANNUAL TOWN MEETING
MAY 15, 2021

Article 40. A motion was made, seconded, and voted to amend Section 12 of the Oak Bluffs Zoning By-law governing Solar By Right by adopting the following language, and inserting it as Section 12.7, or take any other action relating thereto.

12.7 Large-Scale Ground-Mounted Solar Photovoltaic Installations, As-of-Right

12.7.1 Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, maintenance and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of the large-scale ground-mounted solar photovoltaic installations.

A. District Boundaries (Designated Area). The large-scale ground-mounted solar photovoltaic installation district shall be described as follows: Town of Oak Bluffs, Map 29, Parcels 155, 156, 157, 161, 164 and 165.

12.7.2 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section [*voted April 14, 2015, approved August 4, 2015 and published June 10, 2015*]. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. This section does not apply to solar photovoltaic installations that are smaller than 250kW or those which are not ground mounted.

12.7.3 Permitted Use

A. Solar Installations

12.7.4 Definitions

Solar Installation: Solar Installation means a large-scale ground-mounted solar photovoltaic system that is structurally mounted on the ground and is not roof mounted, that has a minimum rated nameplate capacity of 250kW (DC) or more (where the nameplate capacity is the maximum rated output of electrical power production of the photovoltaic system in direct current).

As-of-Right Siting: As-of-Right shall mean that the development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaw. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector, or if there is none in a town, the board of selectman, or person or board designated by local ordinance or bylaw.
Building Inspector: The inspector of buildings, building commissioner, or local inspector or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.
Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large scale solar photovoltaic installations.
Designated Location: The location(s) designated by (the community's local legislative body), in accordance with the Massachusetts General Laws Chapter 40A, Section 5, where ground-mounted large scale solar photovoltaic installations may be sited as-of-right. Said location(s) are shown on a Zoning Map 29, Parcels 155, 156, 157, 161, 164 & 165 pursuant to Massachusetts General Laws Chapter 40A, Section 4. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.
Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250kW DC.
On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.
Rated Nameplate Capacity: The maximum rated output of electrical power production of the Photovoltaic system in Direct Current (DC).
Site Plan Review: Review by the Site Plan Review Authority to determine conformance with local zoning bylaws.
Site Plan Review Authority: For purposes of this bylaw, Site Plan Review Authority refers to the Planning Board.
Zoning Enforcement Authority: The person or board charged with enforcing the zoning ordinances or bylaws.

12.7.5 General Requirements For All Large-Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

A. Compliance with Laws, Ordinances and Regulations:

The construction and operation of all large scale solar photovoltaic installations shall be in compliance with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

B. Building Permit:

No large scale solar photovoltaic installation shall be constructed, installed or modified without first obtaining a building permit.

C. Fees:

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

12.7.6 Site Plan Review:
Ground-mounted large scale solar photovoltaic installations with 250kW or larger of rated nameplate capacity shall undergo site plan review by the Planning Board prior to construction, installation, or modification as provided in this section.

12.7.6.1 General:
All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

12.7.6.2 Required Documents:
Pursuant to the site plan review process, the project proponent shall provide the following documents:

A project summary, together with a site plan showing:
property lines and physical features, including roads, for the project site;
proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures; and the zoning district designation for the parcel(s) of land comprising the project site;
blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system (including the location of each item of electrical equipment) and any potential shading from nearby structures;
one-or three-line electrical diagram detailing the solar photovoltaic installation, associated components and the electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
Name, address, and contact information for the proposed installer;
Name, address, phone number, and signature of the applicant(s), any agent(s) representing the applicant(s), and the owner(s)/developer(s) if the applicant is not the owner of the developer. Such data must be provided for all co-applicants and co-owners, if any;
Description, with accompanying documentation, of proposed access control arrangements for the project site both for the construction phase and the operation of the installation thereafter;
Zoning District designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
Proof of liability insurance, including an estimate of the total costs associated with decommissioning the Solar Installation in accordance prepared by a qualified engineer, which costs shall include a mechanism for calculating increased costs due to inflation and potential regulatory changes; and
A public outreach plan, including a project development timeline, which indicates how the applicant will inform abutters and the community. All plans, maps, blueprints and drawings shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.
The Planning Board may waive documentary requirements as it deems appropriate.

12.7.7 Site Control:

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

Operation & Maintenance Plan:

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground mounted solar photovoltaic system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

Utility Notification

No large scale ground mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operators' intent to install an interconnected customer-owned generator. Off grid systems shall be exempt from this requirement.

12.7.10 Setbacks:
For large scale ground mounted solar photovoltaic installations, front, side and rear setbacks shall follow local guidelines. If any portion of the lot abuts a Conservation-Recreation or Residential District, the front, side or rear setbacks shall not be less than 50 feet.

12.7.11 Appurtenant Structures:
All appurtenant structures to large scale ground mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

12.7.12 Design Standards
A. Lighting:
Lighting of large-scale ground mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. Where feasible, lighting of the installation shall be directed downward and shall incorporate fully cut-off fixtures to reduce light pollution.
B. Signage:
Signs on large scale ground mounted solar photovoltaic installations shall comply with the town sign bylaw and shall be required to identify the facilities owner and operator, if different, and provide a 24-hour emergency contact phone number. The solar photovoltaic installation shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

C. Utility Connections:
Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

D. Noise:
The Planning Board may require some or all associated electrical equipment to be located in a sound-insulating enclosure to reduce acoustic noise. The location of the enclosure must be approved by the Planning Board. Any such equipment which the Board does not require to be so located must comply with the provisions of the bylaw. The Board may also require that the applicant perform and provide the results of a sound impact assessment.

12.7.13 Safety and Environmental Standards

A. Emergency Services:
The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the installation shall be clearly marked. The owner or operator shall identify and provide contact details for the person responsible for public inquiries and shall update this information throughout the life of the installation, as required.

B. Land Clearing, Soil Erosion and Habitat Impacts:
Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground mounted solar photovoltaic installation or what is otherwise prescribed by applicable laws, regulations, and bylaws.

12.7.14 Monitoring and Maintenance

A. Solar Photovoltaic Installation Conditions:
The large-scale ground mounted solar photovoltaic installation owner or operator shall monitor access to and safety of the site and shall maintain the facilities in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, integrity of security measures, and landscape maintenance. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the installation and site and any access road(s), unless accepted as a public way.

B. Modifications:
All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

12.7.15 Decommissioning Requirements

A. Discontinuance of Operations:
Any Solar Installation that has reached the end of its useful life shall be decommissioned. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for decommissioning. The owner shall complete decommissioning of the installation no more than150 days after the proposed date of discontinued operations. Decommissioning shall consist of:

physical removal of the Solar Installation, all structures, equipment, security barriers and transmission lines from the site;
disposal (including recycling to the extent possible) of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

B. Abandonment:

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Solar Installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The owner of an abandoned Solar Installation must complete the decommissioning of the installation within 150 days of the date the installation has been deemed abandoned.

C. Lease Expiry:

If, upon expiry of any term of the ground lease for the Solar Installation, the lease is not renewed, the owner of the Solar Installation must complete the decommissioning of the installation within 150 days of the expiry of the lease.

D. Failure to Decommission:

If the owner of the Solar Installation fails to complete the decommissioning as required, the Town may enter the property and physically remove the installation and otherwise complete the decommissioning.

E. Financial Surety:

The owner of a Solar Installation shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of decommissioning in the event the Town must decommission the installation. The Planning Board shall determine the amount and form of the surety. Such surety will not be required for Town-or State-owned facilities.

Planning Board

Executive Summary: This Article amends the Town Zoning Bylaw by creating new regulations for Solar Development bylaw that are in compliance with the Commonwealth of Massachusetts standards for receiving Green Community status.

Two-Thirds Majority

(Section amended ATM 5.15.21, Art 40, AG Approval 9.20.21, Posted 9.20.21)

True Copy Attest:

Colleen E. Morris Town Clerk