



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/18/2013

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Astoria Plan Amendment
DLCD File Number 005-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, November 27, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged**

Cc: Rosemary Johnson, City of Astoria
Gordon Howard, DLCD Urban Planning Specialist
Patrick Wingard, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

☐ In person ☐ electronic ☐ mailed

DEPT OF

NOV 12 2013

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Astoria**

Local file number: A13-04

Date of Adoption: 11-4-13

Date Mailed:

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 8-15-13

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☒ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Development Code by addition of Article 16 establishing regulations, process, and criteria for solar energy facilities; amend Section 9.010 to establish requirement for pre-application meeting on land use permits; amend Section 9.020 amending historic district and adding wireless communication and solar facility permits to mail notice procedures; amend Section 6.050.C.2.b adding # 10 for solar energy Type I review; amend Section 6.050.D.2 adding #n for solar energy Type II review.

Does the Adoption differ from proposal? Yes Please select one

Minor formatting changes. Historic review changed to match other reviews in that Type I permits would be Type I historic review, Type II would be Type II historic review, etc. Section 16.040.K on Safety and Insurance was deleted. Annotated notes deleted.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City wide**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

Please list all affected State or Federal Agencies, Local Governments or Special Districts: CREST, ODFW, US Fish & Wildlife, Astoria Fire Department

Local Contact: **Rosemary Johnson**

Phone: (503) 338-5183 Extension: 2413

Address: **1095 Duane Street**

Fax Number: **503-338-6538**

City: **Astoria**

Zip: **97103**

E-mail Address: **rjohnson@astoria.or.us**

DLCD file No. 005-13 (19971) [17671]

BEFORE THE ASTORIA CITY COUNCIL
OF THE CITY OF ASTORIA

IN THE MATTER OF AN AMENDMENT REQUEST)
)
FOR THE FOLLOWING PROPERTY:)
CITY WIDE, ASTORIA, OREGON 97103) ORDER NO. A13-04
)
APPLICANT: BRETT ESTES, COMMUNITY DEVELOPMENT)
DIRECTOR, CITY OF ASTORIA, 1095 DUANE STREET)
ASTORIA OR 97103)

The above named applicant filed a request to amend the Development Code by the addition of Article 16 concerning solar energy. The Code establishes regulations and the permit review process for installation of solar energy facilities. The draft ordinance is available on the City web site at www.astoria.or.us under Community Development, Projects. In addition, Section 9.010 and 9.020 Administrative Procedures and Section 6.050 Historic Design Review permits are to be amended to include reference to solar energy permits within the City limits of Astoria, Oregon.

A public hearing on the above entitled matter was held before the Planning Commission on September 24, 2013; and the Planning Commission closed the public hearing and rendered a decision at the September 24, 2013 meeting. The Planning Commission found the proposed amendment to be necessary and recommended to the Astoria City Council that the proposed amendment be approved.

A public hearing on the above entitled matter was held before the Astoria City Council and the public hearing was closed at the October 21, 2013 meeting; and the Astoria City Council rendered a decision at the November 4, 2013 meeting.

The City Council found the proposed amendment to be necessary and orders that this application for an Amendment A13-04 is approved and adopts the findings and conclusions of law attached hereto. A copy of the application, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

The effective date of this approval is the date of the signing of this Order.

This decision may be appealed to the Land Use Board of Appeals (LUBA) by the Applicant, party to the hearing, or a party who responded in writing, by filing a Notice of Intent to Appeal with LUBA within 21 days of the date this Order is signed.

DATE SIGNED: NOVEMBER 4, 2013

DATE MAILED: 11/7/13

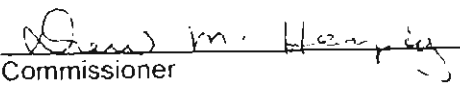
ASTORIA CITY COUNCIL

ASTORIA CITY COUNCIL


Mayor


Commissioner


Commissioner


Commissioner


Commissioner



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

October 23, 2013

TO: MAYOR AND ASTORIA CITY COUNCIL

FROM: PAUL BENOIT, CITY MANAGER

SUBJECT: AMENDMENT REQUEST (A13-04) ON SOLAR ENERGY ORDINANCE

BACKGROUND

In 2010, due to increased interest in locating renewable energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. At that time, Department of Land Conservation and Development (DLCD) awarded a grant to the City to develop a model ordinance for both wind and solar energy that could be used for other coastal communities to specifically address impacts to the coastal environment. Staff, with the assistance of CREST, did research on these facilities and drafted an ordinance for Astoria Planning Commission (APC) review. The APC held several work sessions to discuss the various issues associated with these facilities. These work sessions included a field trip to several wind turbine sites in Clatsop County, open public meetings with input from citizens and industry representatives, and multiple drafts to address the APC direction and concerns. Staff finalized the model ordinance and closed out the DLCD grant which addressed the State's needs.

Due to the nature of the technology and the differences in wind and solar energy, the APC determined that the two issues should be separated and that they would complete the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission, and City Council have held several more work sessions concerning the draft Solar Energy Ordinance. The draft ordinance includes the recent legislation (HB 3516) that requires cities and counties to allow certain solar energy facilities as outright uses. The intent was to develop a code that would make the process easy, comply with State regulations, and address historic concerns. During a work session at its July 23, 2013 meeting, the APC accepted the draft ordinance as ready to be presented at a public hearing.

The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are *{italicized and bracketed}* that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities are included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design

review are also proposed with this amendment. The Historic Landmarks Commission (HLC) held a work session at its August 12, 2013 meeting and accepted the draft as presented.

At its September 24, 2013 meeting, the Astoria Planning Commission held a public hearing and unanimously recommended that the City Council adopt the proposed amendment. A copy of the Staff Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo is the proposed ordinance. A public hearing and first reading on the Amendment was held at the October 21, 2013 City Council meeting.

RECOMMENDATION

If the Council is in agreement, it would be in order for Council to hold a second reading and adopt the Ordinance.

The following is sample language for a motion for adoption of the Findings of Fact and Ordinance:

"I move that the Astoria City Council adopt the findings and conclusions contained in the staff report, and adopt the Ordinance amending the Astoria Development Code."

By: _____
Rosemary Johnson, Planner

Through: _____
Brett Estes, Community Development Director



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

September 17, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER

SUBJECT: AMENDMENT REQUEST (A13-04) ON SOLAR ENERGY ORDINANCE

I. BACKGROUND SUMMARY

- A. Applicant: Brett Estes
Community Development Director
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Astoria Development Code by the addition of Article 16, Solar Energy, to establish regulations and procedures for processing solar energy permits
- C. Location: City-wide

II. BACKGROUND

In 2010, due to increased interest in locating wind energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. At that time, Department of Land Conservation and Development (DLCD) awarded a grant to the City to develop a model ordinance for both wind and solar energy that could be used for other coastal communities to specifically address impacts to the coastal environment. Staff, with the assistance of CREST, did research on these facilities and drafted an ordinance for Astoria Planning Commission (APC) review. The APC held several work sessions to discuss the various issues associated with these facilities. These work sessions included a field trip to several wind turbine sites in Clatsop County, open public meetings with input from citizens and industry representatives, and multiple drafts to address the APC direction and concerns. Staff finalized the model ordinance and closed out the DLCD grant which addressed the State's needs. Staff also developed a draft ordinance which included provisions that addressed the issues and direction of the APC. Following their review of this matter, the APC was generally interested in limiting wind facilities to the smaller mini and "micro" units in the City.

Due to the nature of the technology and the differences in wind and solar energy, the APC determined that the two issues should be separated and that they would complete

the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission, and City Council have held several more work sessions concerning the draft Solar Energy Ordinance. At its August 28, 2012 meeting, the APC discussed the draft with the inclusion of recent legislation (HB 3516) that requires cities and counties to allow certain solar energy facilities as outright uses. The APC directed staff to develop a code that would make the process easy, comply with State regulations, and address historic concerns. At its July 23, 2013 meeting, the APC accepted the draft ordinance as ready to be presented at a public hearing. The Historic Landmarks Commission (HLC) held a work session at its August 12, 2013 meeting and also accepted the draft as ready to be presented at a public hearing.

The proposed Solar Energy Ordinance established regulations and guidelines for installation of solar energy facilities within the City. It creates three levels of permit review including: Type I – Administrative review, Outright Use; Type II – Administrative review, Conditional Use; and Type III – Planning Commission review. The draft contains definitions, identifies prohibited facilities, and facilities that are exempt from permits requirements. The standards and review criteria include sections on environmental resources protection, historic resource protection, location, height, size, safety, lighting, maintenance, etc. It also addresses potential abandoned facilities, the procedures for processing a permit, notifications, and violation enforcement. The draft is in compliance with HB 3516 concerning allowance of solar energy facilities.

The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are *{italicized and bracketed}* that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities is included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design review are also proposed with this amendment. To simplify the process, the Historic Landmarks Commission recommended that historic review be the same level of review as the Administrative and Planning Commission reviews (i.e. Type I “over-the-counter” permit review would be a Type I historic “over-the-counter” review also, etc.).

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to Neighborhood Associations, various agencies, and interested parties on September 11, 2013. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on September 17, 2013. The proposed amendment is legislative as it applies City-wide. Any comments received will be made available at the Astoria Planning Commission meeting.

The APC's recommendation will be forwarded to the City Council for public hearing tentatively at the October 21, 2013 City Council meeting.

B. City Council

A public notice will be mailed to Neighborhood Associations, various agencies, and interested parties on September 27, 2013. In accordance with Section 9.020, a notice of public hearing will be published in the Daily Astorian on October 14, 2013. Any comments received will be made available at the City Council meeting.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020(A) states that *"an amendment to the text of the Development Code or the Comprehensive Plan may be initiated by the City Council, Planning Commission, the Community Development Director, a person owning property in the City, or a City resident."*

Finding: The proposed amendment to the Development Code is being initiated by the Community Development Director.

- B. Section 10.050(A) states that *"The following amendment actions are considered legislative under this Code:*

1. *An amendment to the text of the Development Code or Comprehensive Plan. . ."*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 6 concerning Historic Properties, Article 9 concerning Administrative Procedures, and to create Article 16 concerning Solar Energy. The Code is applicable City-wide. Processing as a legislative action is appropriate.

- C. Section 10.070(A)(1) requires that *"The amendment is consistent with the Comprehensive Plan."*

1. CP.005(5), General Plan Philosophy and Policy Statement states that local comprehensive plans *"Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve."*

Finding: The Development Code does not address solar energy facilities. With the increase in need and desire for alternative energy, the Code is proposed to be amended to include regulations, guidelines, and permit procedures for installation of solar energy facilities.

2. CP.010(2), Natural Features states that *"The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural*

topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged."

Finding: The location of solar energy facilities has the potential of impacting scenic views and vistas. The proposed ordinance establishes parameters for location of these facilities aimed at allowing the installation of solar equipment while protecting scenic views with height and size limitations, and the review of proposed perspectives to analyze the potential visual impact of the facilities.

3. CP.015(1), General Land & Water Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the Plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

Finding: The proposed ordinance allows for solar energy facilities while establishing standards for their size, location, and appearance to protect the character of residential and historic neighborhoods. As a regional tourist destination the City needs to protect its character while still allowing for modern services such as solar energy. With proper placement both goals can be achieved. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.185(G), Estuary and Shoreland Policies states that *"This subsection applies to uses and activities with potential adverse impacts on fish or wildlife habitat, both in Columbia River estuarine aquatic areas and in estuarine shorelands.*
 1. *Endangered or threatened species habitat shall be protected from incompatible development.*
 2. *Measures shall be taken protecting nesting, roosting, feeding and resting areas used by either resident or migratory bird populations.*
 3. *Major nontidal marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources within the Estuary Shorelands Boundary shall be protected. New uses in these areas shall be consistent with the protection of natural values, and may include propagation and selective harvest of forest products, grazing, harvesting, wild crops, and low intensity water-dependent recreation."*

CP.460(1), Natural Resource Policies states that *"The Plan land and water use designations will protect those areas that have high natural value, and direct intensive development into those areas that can best support it."*

CP.460(3) , Natural Resource Policies states that *"The City recognizes the importance of "trade offs" that must occur in the planning process. Although certain estuary areas have been designated for intensive development, other areas will be left in their natural condition in order to balance environmental and economic concerns."*

Finding: The proposed ordinance identifies the Natural Shoreland Zone (S-5) and the Sensitive Bird Habitat Overlay Zone (SBHO) as prohibited areas for solar energy facilities to protect these natural areas that are major protected habitat areas for wildlife and birds. The ordinance also identifies the Aquatic Conservation Zone (A-3) and Aquatic Natural Zone (A-4) as Restricted Zones for solar energy facilities. Both of these zones are designated to protect the natural environment especially the fish and estuary wildlife habitat. Astoria is home to several Eagle nests, a heron rookery, and many species of endangered fish and wildlife. The intent of the ordinance is to allow solar energy facilities while protecting these more sensitive habitat areas from any unnecessary intrusion. A section on environmental review requires that facilities be reviewed for their potential impact on environmental resources in all areas of the City.

5. CP.250(1), Historic Preservation Goals states that *"The City will Promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

CP.250(3), Historic Preservation Goals states that *"The City will Encourage the application of historical considerations in the beautification of Astoria's Columbia River waterfront."*

CP.255(6), Historic Preservation Policies states that *"The City will make available to property owners information and technical advice on ways of protecting and restoring historical values of private property."*

CP.200(6), Economic Development Goals states that the City will *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

CP.205(5), Economic Development Policies states that *"The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements."*

Finding: The proposed amendment will adopt standards for installation of solar energy facilities on or adjacent to historic properties. The process would include three levels of historic review to allow some permits to be reviewed administratively "over-the-counter", some to be reviewed

administratively after public notification, and other permits to be reviewed by the HLC. The intent is to encourage the use of alternative energy while protecting the historic character of the structures and community. By allowing solar energy facilities, it aids in the adaptive reuse of buildings and provide an additional financial tool for property owners when restoring historic buildings. The code would provide citizens with direction on the correct design and method of installation for solar energy facilities. The code would also protect the scenic views of the Columbia River waterfront with standards for height and location of facilities. It establishes design standards that would protect historic neighborhoods and the many scenic views that bring visitors to the community.

6. CP.415(3), Energy Goals states that *"Encourage the use of solar energy wherever possible through the layout of new subdivisions, and through flexible application of the Uniform Building Code;"*

Finding: The proposed ordinance establishes regulations and a permit process for review of solar energy facilities within the City. It provides for three levels of permit review including an over-the-counter permit, administrative public review permit, and a permit through the Planning Commission. The City works closely with the Building Official to assure that the Uniform Building Code is applied evenly but with flexibility that allows for the encouragement of facilities such as solar energy.

7. CP.470(1), Citizen Involvement states that *"Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies."*

Finding: Throughout the process of drafting the proposed ordinance, the City has provided extensive public outreach. The APC has held numerous work sessions over the last three years with invitations and notices sent to interested parties, neighborhood associations, industry representatives, email lists, web site, etc. Anyone interested in the proposed ordinance was encouraged to submit suggestions and research on alternative energy and how Astoria should regulate it. Work sessions were open for discussion with the public to allow for interactive feedback at this early stage of the adoption process. Drafts were specifically sent to industry representatives and interested parties for additional input beyond the public work sessions. A joint work session with the APC and City Council was held on January 22, 2013 with a presentation by Energy Trust of Oregon explaining changes in the alternative energy industry. The following is a list of public work sessions and newspaper articles concerning the draft solar and wind energy ordinance:

June 22, 2009	APC
February 2, 2010	APC
March 23, 2010	APC
April 3, 2010	Daily Astorian article

April 20, 2010	HLC
April 27, 2010	APC site visits
May 4, 2010	APC & Daily Astorian article
May 25, 2010	APC update report
June 21, 2010	Daily Astorian article
June 22, 2010	APC
June 23, 2010	Daily Astorian article
August 3, 2010	APC
August 20, 2010	HLC
July 24, 2012	APC
August 28, 2012	APC
January 22, 2013	City Council & APC presentation by Energy Trust
July 23, 2013	APC
August 12, 2013	HLC
September 24, 2013	APC public hearing

The City was very conscious of the interest in alternative energy and the need to have an ordinance that would meet the needs of the citizens, protect the environment and historic resources, be in compliance with State regulations, and would be a permit process that was easy for both the citizens and staff.

Finding: The request is consistent with the Comprehensive Plan.

- D. Section 10.070(A)(2) requires that *"The amendment will not adversely affect the ability of the City to satisfy land and water use needs."*

Finding: The proposed amendment will satisfy land use needs in that it will allow for the installation of solar energy facilities that will provide alternative energy to buildings within the City. The ordinance will allow for three levels of permit review providing administrative permit reviews that will allow for quick review of permit applications. The opportunity for public input would be preserved in Type II & Type III reviews with specific parameters for Type I administrative reviews. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Astoria Planning Commission forward the proposed amendment to the City Council for adoption.

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE ARTICLE 8
CONCERNING SOLAR ENERGY FACILITIES ON HISTORIC PROPERTIES, ARTICLE 9
CONCERNING ADMINISTRATIVE PROCEDURES, AND ADDING ARTICLE 16 ON SOLAR
ENERGY SYSTEMS

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code Section 6.050.C.2.b, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

"10) Solar energy facilities as listed in Development Code Section 16.030.A as a Solar Permit Type I, Administrative Review, Outright Use."

Section 2. Astoria Development Code Section 6.050.D.2, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

"n. Solar energy facilities as listed in Development Code Section 16.030.B as a Solar Permit Type II, Administrative Review, Conditional Use."

Section 3. Astoria Development Code Section 9.010, Administrative Procedures, Application Information and Procedures, is amended with the addition to read as follows:

"F. Pre-Application Meeting.

Prior to submittal of an application, a pre-application meeting with the Community Development Director and/or the Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

G. Determination of Permit Process.

The Community Development Director may determine that a permit should be reviewed by a Commission/Committee in lieu of an Administrative Review to protect the best interests of the surrounding property or neighborhood or the City as a whole."

Section 4. Astoria Development Code Section 9.020.B.1.g, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and replaced to read as follows:

"g. Historic District Establishment - Owners of property abutting or within the boundaries of the proposed District."

Section 5. Astoria Development Code Section 9.020.B.1, Public Notice, Mailed Notice - Distribution, Time Requirements, is amended by the addition to read as follows:

"j. Wireless Communication Facility -- 500 feet.

k. Solar Facility, Administrative Conditional Use -- 100 feet.

l. Solar Facility, Planning Commission Conditional Use -- 250 feet."

Section 6. Astoria Development Code Sections 9.020.B.3 & 4, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and renumbered to read as follows:

"3. Notice shall be mailed not less than 20 days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 days prior to the first evidentiary hearing."

Section 7. Astoria Development Code Article 16, Solar Energy Systems is added to read as follows:

Complete Article 16, Solar Energy Systems Ordinance attached to this document.

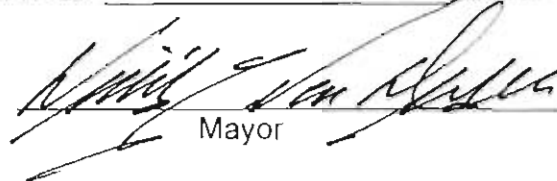
Section 8. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS 4TH DAY OF NOVEMBER, 2013.

APPROVED BY THE MAYOR THIS 4TH DAY OF NOVEMBER, 2013.

ATTEST.


Paul Benoit, City Manager


Mayor

ROLL CALL ON ADOPTION:

YEA

NAY

ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr
Mayor Van Dusen

X
X
X
X
X

ARTICLE 16

STANDARDS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

16.005. PURPOSE.

The purpose of this ordinance is to promote renewable energy resources and provide a framework for the construction and operation of small scale solar energy systems in the City of Astoria, subject to standards which address the public health and safety of its residents. This ordinance will allow small scale solar energy systems with specific standards to protect the general public and preserve the historic, environmental, and aesthetic qualities of the City.

16.010. APPLICABILITY.

- A. All small scale solar systems located within the City of Astoria, whether upon private or public lands shall comply with the requirements of Article 16.
- B. Except as noted in Section 16.025.B, "Zoning Permit", the provisions of this Article do not apply to the following facilities. However, if located on a historic property, the facility would still require historic design review.

- 1. A solar facility meeting all of the following:

- a. less than four (4) square feet; and
- b. mounted parallel to the slope of the roof on which it is installed (less than 1' above the plane of the roof); and
- c. located on a non-primary elevation of a structure that is not highly visible from the streetscape.

- 2. A solar facility of less than one (1) square foot each mounted on a structure to produce light such as a fence post or landscape/walkway lighting.



CAMOUFLAGE: A way of painting and mounting a solar facility and/or support structure, resulting in the structure being reasonably difficult for the naked eye to detect or observe.

GRANTING AUTHORITY: The Community Development Director or designee, Astoria Planning Commission, Historic Landmarks Commission, and/or the Design Review Committee who review and approve land use requests.

GUYED TOWER: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

HIGHLY VISIBLE: The degree by which a facility is visible from the street shall be determined by whether the facility can be seen from a moving vehicle traveling at the posted speed limit at a distance of greater than 100' from the subject property. Initial visibility at a shorter distance shall be deemed not to be highly visible.

LATTICE TOWER: A vertical support structure consisting of a network of crossed braces, forming a tower which may be three, four, or more sided.

MONOPOLE: A vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube, or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

NON-RESIDENTIAL UTILIZED PROPERTY: Property within a residential, neighborhood commercial, or attached-housing zone that is not used for residential purposes. Such property includes, but is not limited to, schools, churches, public parks, public safety facilities, and streets and highways. A public or privately owned vacant lot in a residential zone shall be not be considered non-residentially utilized property as the capacity for residential use exists.

PHOTOVOLTAIC PANEL: A device used for the collection and/or production of electric power through the conversion of light to electric power by semiconductor devices. For the purposes of this Code, it will also refer to tubular designs.

PRIMARY ELEVATION: For the purposes of the Solar Energy Ordinance, the primary elevation shall be any elevation (front, side and/or rear) that has frontage on an improved public right-of-way.

RESIDENTIAL UTILIZED PROPERTY: Property within any zone that is used primarily for residential purposes such as, single-family dwelling, two-family dwelling, multi-family dwelling, condominium, townhome, etc.

SHOULD: A requirement, unless it can be shown that to comply with the requirement would be unreasonable, impractical, or unfeasible. Economic hardship alone shall not be justification for noncompliance with the requirement, but may be considered in conjunction with other reasons for noncompliance.

SOLAR FACILITY: Small scale solar energy system.

SMALL SCALE SOLAR ENERGY SYSTEM: Facility for the collection of solar energy either ground mounted facilities of less than 1,000 square feet combined total area, or roof mounted of less than the square footage of the total roof area. Solar water heater and solar thermal energy system is included in this definition.

SOLAR THERMAL ENERGY: Technology which harnesses solar energy to produce useful heat for residential, commercial, and industrial uses. Solar thermal systems absorb the sun's radiation in flat plate collectors, much like the road absorbs sunlight. There, a heat transfer fluid is circulated through the collectors, heating it to temperatures as high as 200° Fahrenheit. The heated fluid can be used for domestic hot water, industrial process heat. or for space heating. Solar thermal systems do not produce electricity.

SOLAR WATER HEATER: Facility for heating water that generally contains a solar collector and a storage tank for water.

SPECULATION ("SPEC") TOWER / SUPPORT STRUCTURE: A solar facility support structure designed for the purpose of providing location mounts for solar facility without a binding commitment or option to lease a location upon the tower by a licensed service provider at the time of initial application.

16.020. PERMITTED LOCATIONS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

A. Solar facilities are permitted in all zones established as of July 2013 within the City through the Conditional Use and/or Administrative Review process in accordance with Astoria Development Code Article 9 except the following.

1. Prohibited Zones.

- a. Natural Shorelands (S-5)
- b. Sensitive Bird Habitat Overlay (SBHO)

2. Restricted Zones.

- a. Aquatic Conservation (A-3)

Solar facilities may be located on residential and commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

- b. Aquatic Natural (A-4)

Solar facilities may be located on commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

B. Large Scale Solar Energy Systems.

Solar Energy systems that do not meet the definition of “small scale” as defined in this Code are prohibited within the City.

C. Location, Siting, and Designs in Preferred Priority Order.

1. Camouflaged / Concealed Design;
2. Location on Existing Support Structure or Existing Alternative Support Structure;
3. Location on New Support Structure;
4. Location within Restricted Zones.

D. Prohibited Structures.

The following structures are prohibited:

1. Lattice and guyed wire towers and support structures.
2. Speculation (“spec”) support structures.

E. Number of Facilities.

Only one solar facility, other than those listed in 16.030.A.1 below, is allowed per site of less than one acre. Sites of greater than one acre may have multiple facilities at a ratio of one facility per 0.25 acre. Sites may contain both a solar and wind facility.

16.025. PERMITS REQUIRED.

A. Building Permit.

A building permit is required for each solar facility in accordance with the requirements of the Building Codes as adopted by the City. A building permit will not be issued until all land use approvals have been obtained; any associated conditions have been met; and all other applicable local, State, and Federal approvals have been secured.

B. Zoning Permit.

A Solar Energy Permit is required for each solar facility regardless of outright or conditional use classification.

C. Historic Design Review.

All solar facilities proposed to be located on or adjacent to properties designated as historic or within or adjacent to a historic district shall obtain approval from the Historic Preservation Officer or the Historic Landmarks Commission (as applicable) prior to the issuance of a building permit. Historic design review shall be in accordance with Development Code Article 6 and Section 16.040.B.

D. Exception.

Solar facilities installed by the City, County, and/or Oregon Department of Transportation for traffic control devices to which they are attached are exempt from the permit requirements. Other solar facilities are still subject to the standards of this Code.

16.030. ZONING PERMIT REVIEW.

A. Type I Permit, Administrative Review – Outright Use.

The following solar permit applications may be reviewed administratively in accordance with Article 16 as an outright use permit.

1. Roof-mounted Facilities.

A solar facility may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Roof-mounted photovoltaic panels and solar thermal energy systems located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that:

- a) does not increase the footprint of the structure; and
- b) does not exceed the peak height of the portion of the roof on which it is installed; and
- c) is mounted so that the plane of the system is parallel to the slope of the roof.

b. Roof-mounted solar water heaters located on any structure that:

- 1) heat water for that structure; and
- 2) are less than 25% of the roof area on which they are located; and
- 3) are not on a primary elevation; and
- 4) are not highly visible from the street scape.

2. Freestanding Facilities:

A freestanding solar facility mounted on poles or the ground may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

- a. Photovoltaic panels and solar thermal energy systems mounted on poles or the ground that:
 - 1) generate power for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10' in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.
- b. Solar water heaters mounted on poles or the ground that:
 - 1) heat water for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10' in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type I Administrative Review Solar Permits, historic design review shall be processed as a Type I Certificate of Appropriateness in accordance with Article 6, if it also complies with the following:

- a. Roof-mounted Facilities.
 - 1) generate power for that structure; and
 - 2) are less than 25% of the roof area on which they are located; and
 - 3) are not on a primary elevation; and
 - 4) are not highly visible from a street scape.

B. Type II, Administrative Review – Conditional Use.

A Solar Energy Permit application may be reviewed administratively in accordance with Article 9 as a conditional use permit. The Community Development Director may

determine that a permit should be reviewed by the Planning Commission in lieu of an Administrative Review.

1. Roof-mounted Facilities.

A roof-mounted solar facility may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) increases the footprint of the structure; or
- 2) exceeds the peak height of the portion of the roof on which it is installed; or
- 3) is mounted so that the plane of the system is not parallel to the slope of the roof; or
- 4) is located on a non-residential structure in a zone that does not allow non-residential structures.

b. Solar water heaters.

Installation of a solar water heater system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) heat water for that structure; and
- 2) are less than 50% of the roof area on which they are located.

2. Freestanding Facilities.

A freestanding solar facility mounted on poles or the ground may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic energy system or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) generate power for that structure or adjacent uses; and
- 2) do not exceed 100 square feet in area; and

- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

b. Solar water heaters.

Installation of a freestanding solar water heater system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following.

- 1) heat water for that structure; and
- 2) do not exceed 100 square feet in area; and
- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type II Administrative Conditional Use Review Solar Permits, historic design review shall be processed as a Type II Certificate of Appropriateness permit in accordance with Article 6, if it also complies with the following:

a. Roof Mounted, Freestanding, and/or Solar Water Heater Facilities

- 1) are not highly visible from a street scape.

C. Type III, Commission Review.

1. Planning Commission.

All solar permit applications that do not meet the criteria noted above to be reviewed administratively, shall be reviewed by the Planning Commission in accordance with Article 9 as a conditional use permit.

2. Historic Landmarks Commission.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. In addition to the required conditional use permit review, all solar permit applications that do not meet the criteria noted above to be reviewed administratively as a Type I or Type II Certificate of Appropriateness, shall be

reviewed by the Historic Landmarks Commission in accordance with Article 6 as an Exterior Alteration or New Construction permit, as applicable.

16.035. APPLICATION SUBMITTAL REQUIREMENTS.

A. All applications for permits for the placement and construction of solar facilities, except those listed in Section 16.010.B shall be accompanied by the following:

1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
3. If mounted on a tower, data pertaining to the tower's safety and structural stability, including safety results from test facilities.
4. An accurate and scaled site plan, scaled elevation views, and other supporting drawings illustrating the location and dimensions of the proposed solar facility, including but not limited to:
 - a. Support structure(s)
 - b. Alternative support structure(s)
 - c. Equipment enclosures
 - d. Any and all other devices and attachments.

Not required for facilities listed as Outright in Section 16.030.A. {HB 3516}

5. If Federal funds are involved, evidence demonstrating that the applicant has filed a request with the State Historic Preservation Office (SHPO) to review the application under Section 106 of the National Historic Preservation Act (NHPA), or evidence demonstrating that the applicant has complied with all State Historic Preservation Office requirements as a result of the Section 106 consultation.
6. Payment of fees.

Not required for facilities listed as Outright in Section 16.030.A.

7. All such additional information as the Community Development Director may identify as being relevant to the permitting process.

8. No small scale solar energy systems shall be constructed or operated within the City limits until all necessary City, State, and Federal approvals have been secured. Evidence of approvals shall be provided to the City.
9. Manufacturer information on the reflective nature of the solar facility to evaluate the potential light reflection into adjacent properties and rights-of-way.

Not required for facilities listed as Outright in Section 16.030.A.

10. Visual impact analysis and demonstrations including mock-ups and/or photo simulations from at least three (3) directional perspectives. Simulations should include:
 - a. Perspectives from all directions that could impact view corridors;
 - b. Perspectives from above the site for roof mounted facilities;

Not required for facilities listed as Outright in Section 16.030.A.

11. Landscape and/or screening plan as required by Section 16.040.E.
12. Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Article 16. Only one copy shall be submitted for Type I and Type II applications reviewed administratively as an Outright Use and/or Administrative Conditional Use. For Type III applications requiring Planning Commission Conditional Use review, ten (10) copies shall be submitted. Digital copies of plans and required information is encouraged.

B. All applications for solar facilities specified in Section 16.010.B.1 shall be accompanied by the following:

1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
3. Photo of the proposed location as viewed from the street.

All applications for solar facilities, including solar water heaters, shall demonstrate compliance and conformity with the following requirements. The burden of proof is on the applicant to demonstrate such compliance and conformity. Section 16.040.B shall be reviewed by the Historic Landmarks Commission. All other standards and review criteria shall be reviewed by the Community Development Director and/or the Astoria Planning Commission, as applicable.

A. Environmental Resource Protection.

All solar facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all small scale solar energy systems:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Columbia River Estuary Shoreland Overlay (CRESO), Sensitive Bird Habitat Overlay (SBHO), National Environmental Policy Act (NEPA), and Endangered Species Act (ESA);

B. Historic Resource Protection.

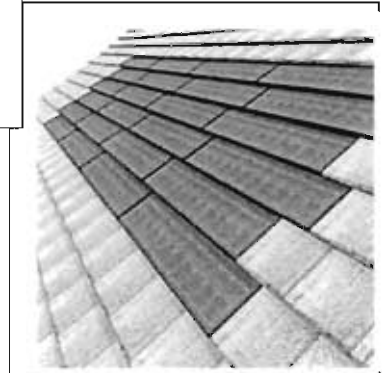
All solar facilities shall be sited so as to minimize the impact on historic resources both structurally and visually. To that end, the following measures shall be implemented for all solar facilities and shall be reviewed by the Historic Landmarks Commission or Historic Preservation Officer, as applicable:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Astoria Historic Properties Ordinance and National Historic Preservation Act (NHPA).
2. Roof mounted solar facilities should be located on non-primary roof elevations of historic buildings, and shall be located back from the eave of the roof so as to be as inconspicuous as possible. If location on a primary elevation is proposed as the only alternative, the facility should be hidden behind existing architectural features when possible.
3. Freestanding solar facilities shall not be located on a primary elevation of a historic site nor within the historic streetscape of the neighborhood within a Historic District or Historic Inventory Area regardless of the historic status of the individual site if the facility would be highly visible. Freestanding solar facilities shall be considered prior to proposal for alteration to a historic structure. They shall be screened from view of the streetscape by fence or landscaping.
4. Solar facilities shall be located on newer additions or accessory buildings before location on the historic structure.

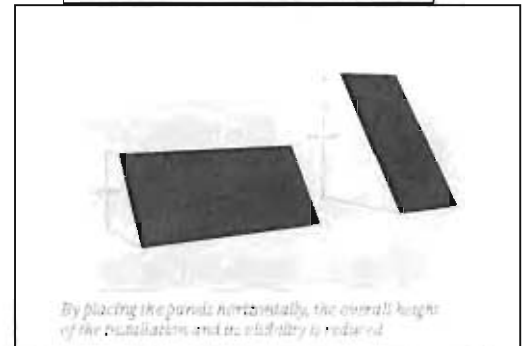
5. Consideration should first be given to alternative solar facilities such as shingle cells or other materials that are less intrusive. The applicant shall provide information concerning the other materials considered and the reason why they are not being proposed.



Solar roof shingles and roof mounted panels



6. Roof mounted solar facilities shall be mounted horizontal and not vertical to reduce the visual impact from the ground. The vertical tilt shall be the minimum needed to obtain efficiency of the facility. For facilities with multi-tilt angles, the maximum angle at any given time shall maintain minimal visibility from the ground level.



7. Solar facilities may be incorporated into architectural features such as awnings or other building features on non-primary elevations.



Solar awnings

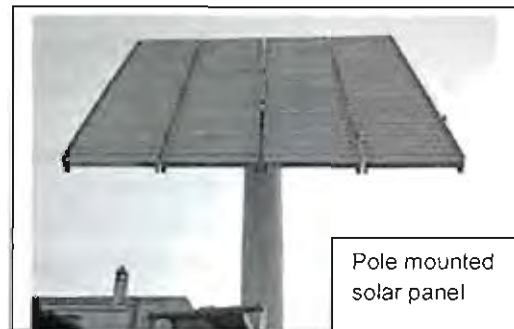
8. The color of the solar facility including mounting equipment and mechanical equipment shall be compatible with the historic material background color so as to blend in with the historic character of the site, and/or landscaping.
9. Mechanical equipment necessary for solar facilities such as solar water heaters, etc. shall be screened from view.
10. Historic material and architectural features shall not be removed or damaged with the installation of a solar facility.

C. Color and Materials.

1. All buildings, poles, support structures, and other associated components of each solar facility site shall be initially coated and thereafter recoated as necessary with a non-reflective neutral color in muted tones.
2. The color selected shall be one that will minimize visibility of the solar facility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees, or grasslands shall be coated with colors matching those landscapes (i.e. green, brown, tan, etc.), while elements which rise above the horizon shall be coated a color that matches the typical overcast sky (i.e. white, light gray, etc.), or the background color at that location.
3. The color and coating shall be reviewed and approved by the granting authority.
4. Upon a clear showing by the applicant that compliance with the requirements of this Section would void a manufacturer's warranty on any specific equipment, or that natural aging of the material would provide greater concealment, the granting authority may waive the requirements of this Section for such specifically identified equipment.

D. Height.

Solar facilities shall comply with the maximum structure height limitations of the underlying zone and shall comply with the following height requirements, unless a variance is obtained:



1. The height of the facility shall be calculated from grade level to the maximum height of all elements including a fully extended solar panel.
2. Maximum height.
 - a. Residential.

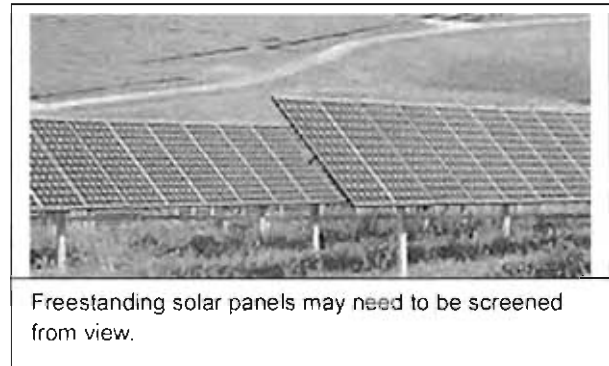
Freestanding solar facilities shall not exceed a maximum height of 10' on residential utilized properties or in residential developed areas or zones.
 - b. Non-Residential.

Freestanding solar facilities shall not exceed a maximum height of 20' in non-residential developed areas or zones.
 - c. If there is not a height limit in the underlying zone, the maximum height of a facility on a structure shall be 45' feet.

3. Building or other structure-mounted solar facilities shall not project more than ten (10) additional feet above the highest ridge of the roof on the building or structure.

E. Landscape and Screening.

Ground mounted solar facility sites greater than 100 square feet in area shall be improved with native vegetation, suitable landscaping, and/or fencing installed to screen the facility, where it is necessary for visual and/or security buffering. To this end, the following requirements shall be implemented for all freestanding solar facilities which are installed on ground support structures:



1. Landscaping.

- a. A landscape plan, meeting the requirements of Development Code Sections 3.105 to 3.120, shall be submitted as part of the application.
- b. Any proposed or required fenced area is to be surrounded, where feasible, by a landscaped strip of sufficient width (minimum five feet wide) and height to create a visual screen. Required landscaping shall be located outside of the fenced area.
- c. A majority of the planted vegetation shall be of an evergreen variety.
- d. The location of the landscape buffer may be at any distance from the facility to create a visual buffer. The landscaping does not need to be directly adjacent to the facility.
- e. The landscape plan shall be subject to review and approval of the Community Development Director.

2. Fences.

A fence may be needed for security and/or to enclose ground mounted equipment to minimize the visual impact on surrounding properties. If it is determined that a fence is required, it shall comply with the following:

- a. The fence shall be a maximum of six (6') feet in height.
- b. The fence shall, where feasible, be installed and maintained around the entire perimeter of the site and surround the solar facility and equipment shelter.

- c. If the granting authority determines that a fence surrounding support structures is not feasible, such structures may be exempted from the fencing requirements of this Section.
- d. Chain link fences shall be powder coated with a non-reflective color. If a chain link fence is used for visual buffering, it shall contain slats in the chain linking.
- e. Electric, barbed wire, and concertina wire fences are prohibited.

F. Setback.

All solar facilities shall comply with the required setback area of the underlying zone, unless a variance is obtained.

G. Access Driveways and Parking.

New or additional access driveways and parking areas shall not be allowed for solar facilities for single or two-family dwellings, or within a residential developed area or zone. When an access driveway or parking area is needed for installation, maintenance, or operation of a solar facility in other than residential applications, the following shall apply:

- 1. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the City's Engineering Department Standards, Development Code, and City Codes.
- 2. Existing driveways shall be used for access whenever possible.
- 3. New parking areas shall, whenever feasible, be shared with other solar facilities and/or other permitted uses.

H. Lighting.

- 1. Solar facilities shall only be illuminated as necessary to comply with FAA or other applicable State and Federal requirements. Documentation from such State and Federal agencies describing required compliance measures is required.
- 2. Required exterior lighting shall not glare onto other properties or rights-of-way.
- 3. Strobe lights are prohibited unless required by FAA.

I. Signs and Advertising.

1. Appropriate warning signage shall be placed on solar facilities, electrical equipment, and facility entrances, as needed.
2. For emergency purposes, equipment information limited to the solar facility provider(s) name and contact phone number shall appear at the facility in a discreet yet visible location, either on the equipment cabinet or supporting structure.
3. The use of any portion of a solar facility for signs or advertisements other than warning or equipment information signs is strictly prohibited.

J. Underground Utilities.

All wiring between solar facilities and a structure or energy facility substation, shall be installed underground.

16.045. MONITORING AND MAINTENANCE.

A. Compliance Testing.

All solar facilities shall comply with all Federal, State, and local regulations. The City at any time may require evidence of testing of a facility to determine if the facility is in compliance with all applicable Federal, State, and local regulations. Such measurements shall be signed and certified by a registered engineer, stating that measurements or calculations are accurate and meet the standards of this Code.

All testing shall be at the cost of the solar facility owner(s). Failure to cooperate with the City in performing such testing shall be adequate basis for revocation of the permit.

B. Maintenance.

The applicant, co-applicant, and/or property owner shall maintain the solar facility. Such maintenance shall include, but shall not be limited to, painting/coating, maintaining structural integrity, landscaping, and other conditions of approval. In the event the applicant, co-applicant, and/or property owner fails to maintain the facility in accordance with permit conditions, the City of Astoria may undertake the maintenance at the expense of the applicant or underlying property owner. Violations of the facility required maintenance conditions shall be declared a nuisance and abated in accordance with the City Code Sections 5.700 to 5.728. Enforcement of the continued maintenance of the structure shall be processed as a nuisance or by any other manner provided by law.

C. Revocation of Permit.

Any facility not in compliance with all applicable Federal, State, and local regulations shall be removed, upon failure to bring the facility into compliance within thirty (30) days after written notice. The permit may be suspended or revoked for non-compliance.

16.050. GENERAL AND OPERATING REQUIREMENTS.

A. Owner and Applicant Responsibilities.

The owner and applicant of the solar facility and his or her successors and assigns at all times shall have the following responsibilities:

1. The owner shall coordinate planning for energy projects with public and privately-owned electric utility companies, with independent developers, and with State and Federal agencies, including but not limited to the Oregon Department of Energy (ODOE), the Oregon Water Resources Department (OWRD), the Northwest Power Planning Council (NPPC), Bonneville Power Administration (BPA), the Bureau of Land Management (BLM), and the United States Forest Service (USFS).
2. The applicant shall ensure that sufficient anti-climbing measures have been incorporated into the solar facility, as needed to reduce potential for trespass and injury.
3. To limit climbing access, a fence six (6') feet high with a locking portal shall be placed around the facility's tower base or the tower climbing apparatus shall be limited to no lower than twelve (12') feet from the ground or the facility's tower may be mounted on a roof top.

16.055. ABANDONMENT.

A. Notice of Abandonment.

1. City Issued Notice of Abandonment.

A solar facility that is out-of-service for a continuous twelve (12) month period shall be deemed to have been abandoned. The Community Development Director shall issue a Notice of Abandonment to the owner of a solar facility that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date the Notice is mailed.

The Community Development Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the

owner provides information that demonstrates the solar facility has not been abandoned.

2. Abandonment by Owner.

At such time that a solar facility provider plans to abandon or discontinue, or is required to discontinue, the operation of a solar facility, such provider shall notify the Community Development Director by Certified United States Postal Service mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations.

B. Removal of Abandoned Facility.

Upon abandonment or discontinuation of use, the owner shall physically remove the solar facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of solar panels, towers, mounts, equipment cabinets, security barriers, and foundations including entirety of depth of the foundation located below ground surface.
2. Restoring the location of the solar facility to a condition acceptable to the Community Development Director, except any remaining landscaping and grading. During such 90 days, the owner may apply, and for good reason, be granted an extension of time on such terms as the Community Development Director or Building Official shall determine appropriate.

C. Failure to Remove Abandoned Facility.

If such structure and equipment enclosure are not removed, as indicated in this Section, the facility may be deemed to be a nuisance, and the City may remove the facility and/or may seek and obtain a court order directing such removal and impose a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal, including any administrative costs in accordance with City Code Sections 5.700 to 5.728 concerning Nuisances and Abatement.

D. Penalties.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored support structures, failure to remove an abandoned facility as required by this Section shall constitute a violation and be subject to the penalties prescribed in Astoria City Code "Penalty and Violation Provisions" in Sections 1.008 to 1.015, in addition to any other methods of enforcement available to the City.

16.060. FEES.

Applicant, at the time of submission of an application, shall pay the filing fee and/or deposit as set by the City. If a deposit is required, actual costs incurred in processing the application shall be billed from the deposit. Should actual costs exceed the deposit, the City shall bill the applicant for the difference.

In accordance with ORS 227.175, no zoning permit fees shall be charged for applications for solar facilities listed in Section 16.030.A.1.

The City shall determine all expenses and return any remaining filing deposit as follows:

1. Approved Permit.

Upon final inspection and after all conditions have been met.

2. Denied and/or Withdrawn Application.

After all appeals have been exhausted and a final determination made.

16.065. BONDING.

The City may require that the applicant for a solar facility furnish to the City a performance bond up to, and not to exceed, the anticipated cost to dismantle the facility and restore the site. The bond may be required to assure that the approval criteria and conditions imposed are completed in accordance with the plan and specifications as approved, and that the facility would be removed if the project is not completed as approved.

The bond shall be released only after final inspection and all conditions have been met.

Not required for facilities listed as Outright in Section 16.030.

16.070. TECHNICAL EXPERT SUPPORT.

- A. The Community Development Director may employ, on behalf of the City, an independent technical expert to review any technical materials submitted including, but not limited to:
 1. materials required under Article 16; or
 2. technical demonstration of unavoidable need or unavailability of alternatives, if required; or
 3. to determine the condition of an existing solar facility.

- B. The costs associated with the independent technical expert review shall be at the expense of the solar facility owners and/or applicants.

16.075. PROCEDURES.

A. Application.

Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Section 16.035.

B. Mailed and Published Notice.

For applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9.

1. Notice to Other Agencies.

In addition to the notices required in Article 9, for applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice to other agencies shall be sent to the City of Astoria Fire Department, United States Fish and Wildlife, Columbia River Estuary Study Taskforce, and any special districts, and local, State, or Federal agency that may have an interest in the proposed application. Written comments will be incorporated into the record of the public hearing.

2. Display Ad.

For Type II applications, in addition to the required public notice in Article 9, the City shall publish a display ad of not less than four (4) square inches in a newspaper of general circulation in the City of Astoria at the expense of the applicant. The notice shall set forth the required information pertinent to the application.

C. Decision.

1. Type I Permit - Outright Use Review.

A decision shall be made by the Community Development Director after a determination is made that the requirements of Article 16 have been met.

2. Type II Permit – Administrative Conditional Use Review.

A decision shall be made by the Community Development Director after the notice period and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. A decision

of the Community Development Director may be appealed to the Planning Commission in accordance with Article 9.

3. Type III Permit – Conditional Use Review and Historic Landmarks Commission Review.

A decision shall be made by the Commission after a public hearing is held and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. In addition to the requirements of Article 16, historic design review shall also include findings of fact that the applicable requirements of Article 6, Historic Properties Ordinance, have been met. A decision of the Commission may be appealed to the City Council in accordance with Article 9.

D. Notice of Decision.

For all permit applications, in addition to the requirements of Article 9, written notice of the decision shall be provided to the Clatsop County Assessment and Taxation Department, and the Astoria Fire Department.

16.080. APPEALS.

A decision of the Granting Authority made pursuant to this Article may be appealed in accordance with Astoria Development Code Article 9.

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of Astoria
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Astoria OR 97103

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