

TOWN OF AMSTERDAM TOWN BOARD

RESOLUTION TO REFER PROPOSED ZONING AMENDMENTS RELATING TO UTILITY-SCALE SOLAR ENERGY SYSTEMS TO THE TOWN OF AMSTERDAM PLANNING BOARD, REFER SAID ZONING AMENDMENTS TO MONTGOMERY COUNTY, AND INITIATE A COORDINATED REVIEW UNDER SEQR

Whereas, given the continued evolution in development and regulation of utility-scale solar energy systems as well as the persistent interest in developing such facilities in the Town—and support from NYS government for the same—the Town Board undertook to update the Town’s land use regulation governing these land uses; and

Whereas, accordingly, on September 18, 2024, by adoption of Local Law 5 of 2024, the Town Board of the Town of Amsterdam adopted a four (4) month moratorium on applications for permits, site plans, or other land use approvals for utility-scale solar energy systems; and

Whereas, the Town Board, at its December 18, 2024 regular meeting, will consider amending Local Law 5 of 2024 in order to enact a three (3) month extension of said moratorium; and

Whereas, in order to guide this land use regulation update process, the Town convened a working group consisting of the Town’s Deputy Supervisor, Planning Board Chair, Zoning Board of Appeals Chair, and Town Attorney; and

Whereas, the working group, having met in October of this year, and with support from the Town’s engineer, Delaware Engineering, D.P.C., has prepared a draft local law containing recommended zoning text amendments that would enact needed updates to the land use regulations governing utility-scale solar energy system developments in the Town, and has delivered a copy of the proposed draft the Town Board (the “proposed zoning text amendments”); and

Whereas, under 6 NYCRR Part 617.4(b)(2), the adoption of changes in the allowable uses within any zoning district that affects 25 or more acres of a zoning district is a type 1 action under SEQR; and

Whereas, proposed zoning text amendments must be referred to the Town Planning Board, in accordance with Art. XII of the Town zoning law, and to the County Planning Board, in accordance with GML Section 239-m; and

now, therefore, be it

RESOLVED, that the Town Board of the Town of Amsterdam hereby refers said proposed zoning text amendments to the Town Planning Board, which must provide a report within sixty (60) days of the date of this resolution, as stipulated by Art. XII of the Town zoning law; and

be it further

RESOLVED, that the Town Board of the Town of Amsterdam hereby classifies adoption of the proposed zoning text amendments as a type 1 action, declares its intent to assume lead agency status for the purposes of the required environmental review, and directs that potentially involved and interested agencies be provided notice of the proposed action and the Board’s intent to assume lead agency, under SEQR; and

be it further

RESOLVED, that the Town Board of the Town of Amsterdam hereby directs that the proposed zoning text amendments be referred to the Montgomery County Planning Board, in accordance with GML 239-m.

Dated: December 18, 2024

Sponsored by:

Seconded by:

ADOPTED- -AYES- -NOES

Town of Amsterdam

PROPOSED LOCAL LAW NO. ___ OF THE YEAR 202[INSERT]

A LOCAL LAW TO AMEND THE TOWN OF AMSTERDAM ZONING LAW AND ENACT CERTAIN CHANGES TO THE SUPPLEMENTARY REGULATIONS PERTAINING TO UTILITY-SCALE SOLAR ENERGY SYSTEMS

1. Legislative Intent

It is the intent of this local law to amend the Town of Amsterdam Zoning Law, as the same may have been amended from time to time, to amend the Town of Amsterdam Zoning Map in order to: a) reflect the reversion of certain lands zoned Planned Unit Development (PUD) to Manufacturing (M-1), in accordance with Local Law No. 2 of 2016 (“Planned Unit Development District No. 2 known as the Giardino PUD”); b) update the zoning map to reflect that certain lands are zoned PUD, in accordance with Local Law 2 of 2023 (“Amended PUD District No. 3 – The Gables and the Lofts at Log City Village PUD”); and enact changes relating to utility-scale solar energy systems.

2. Authority

This local law is adopted by the Town Board of Town of Amsterdam (hereinafter referred to as the “Town Board”) pursuant to its authority to adopt local laws under Article IX of the New York State Constitution; Articles 2 and 3 of the Municipal Home Rule Law; Article I of the Town Zoning Law, particularly Section 2 which authorize the Town to adopt zoning provisions that promote health and general welfare, encourage the most appropriate use of land throughout the Town, encourage development in accord with a comprehensive plan and professional planning techniques, and improve the quality of life throughout the Town.

3. Amendment to Article II Section 4 Definitions

A new sentence is hereby added to the end of the definition of PUBLIC UTILITY STATION OR STRUCTURE, as follows:

For the purposes of the Zoning Law, utility-scale solar energy system, defined separately in the Zoning Law, shall not be defined as a public utility station or structure, shall not be governed by the Zoning regulations which apply public utility stations or structures, and shall be governed by the use-specific regulations of this Zoning Law applicable to utility-scale solar energy systems.

4. Amendments to Article VIII- Supplementary Regulations Section 35 Subsection 2

Article VIII- Supplementary Regulations Section 35 Subsection 2 of the Town of Amsterdam Zoning Law is hereby amended as follows.

- i. Paragraph B(3)(b) is amended to include “access roads,” to read as follows:

For the purpose of this section, lot coverage shall include the total surface area of the solar panel arrays, access roads, and the footprints of all buildings and accessory structures.

- ii. The first sentence of paragraph C(1) is amended to eliminate “B-1 (Business)” and “B-2 (Restricted Business)” to read as follows:

Permitted Zones: Utility-Scale Solar Energy Systems are permitted only in the M-1 (Manufacturing/Mixed Use) zoning district of the Town of Amsterdam, and only upon issuance of a special use permit and site plan approval and compliance with the general standards and requirements in these regulations as well as the following requirements and standards.

- iii. Paragraph C(2)(v) is hereby repealed and replaced with the following:

A Visual Impact Assessment report including modeling and photographic assessment of the visibility from key viewpoints, to be determined in consultation with the Planning Board, along with photo simulations including array equipment. In addition, the report shall include viewshed simulations from off-site residential dwellings from both the first and second floors. The assessment provided to the Planning Board shall generally be in accordance with the most current NYSDEC policy on Assessing and Mitigating Visual and Aesthetic Impacts.

- iv. Paragraph C(2)(ix)(1) is hereby repealed and replaced with the following:

Such plan shall describe the methods and types of screening that is proposed, including but not limited to existing vegetation, topography, fencing and structures, and also detailing the number, location, size (at planting and anticipated height within 5 years) and species of vegetation to be planted on site and the size and extent of berms. Screening plantings shall achieve a height of 10 feet within five (5) years.

- v. Paragraph C(2)(ix)(2) is hereby repealed and replaced with the following:

Such plan shall also include appropriate performance criteria specifying minimum vegetation sizes and measures to be taken in the event that the proposed vegetation

fails to survive, flourish, or otherwise meet said performance criteria throughout the lifetime of the project. The Planning Board may require a landscaping performance guarantee, agreement, or other mechanism to ensure the long-term function of the planting plan.

- vi. Paragraph C(2)(xiii)(3) is hereby repealed and replaced with the following:

A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. The cost estimate shall provide line items (and associated dollar amounts) for decommissioning of all facility components removed at least three (3) feet below grade (the Planning Board, in its discretion, may require removal beyond three (3) feet of depth where the facility is sited on agricultural land) and removal and restoration of access road locations, where appropriate, based on the facility layout. Cost estimations shall be based upon prevailing wages and any other requirements applicable to municipalities under state and federal law. No salvage value shall be attributed to any components of the system. The cost estimate shall take into account inflation, with an escalator clause subject to Planning Board approval. Removal of Solar Energy Systems must be completed in accordance with the Decommissioning Plan. The Town shall also require a decommissioning bond or other financial security in which to finance the cost of such removal and restoration if not removed by the party designated in the plan as the party responsible for removal of the System within the time specified for removal in the Decommissioning Plan.

- vii. A new paragraph C(2)(xiv) is hereby added, as follows:

Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads, and impacts on local business operations shall be proposed by the applicant and reviewed by the Planning Board.

- viii. A new sentence is hereby added to the end of Paragraph D(2)(10), as follows:

The Planning Board, in its discretion, may require the fencing to be further designed in such a way as to permit the passage of wildlife.

- ix. Paragraph D(2)(14) is hereby repealed in its entirety. The remaining Paragraphs D(2)(15), (16), (17), (18), and (19) are, accordingly, hereby renumbered as Paragraphs D(2)(14), (15), (16), (17), and (18), respectively.

- x. A new sentence is hereby added to the end of Paragraph E(4), as follows:

Where the proposed haul routes reviewed by the Planning Board involve use of Town-owned roadways, the applicant shall enter into a road use agreement.

- xii. A new sentence is hereby added to the end of paragraph G(1), as follows:

The Town shall be provided legal rights to access the system site sufficient to complete the required decommissioning, in the event the Town must remove the facility.

- xiii. A new paragraph G(4) is hereby added, as follows:

The Decommissioning Plan shall run to the benefit of the Town of Amsterdam and be executed by the Applicant and such signatures shall be notarized in a format that allows the decommissioning plan to be recorded at the Office of the Montgomery County Clerk and indexed to the subject property.

- xiv. A new Subsection H Road Use Agreement is hereby added, as follows:

Where the haul route reviewed and approved by the Planning Board includes use of Town-owned roadways, a road use agreement shall be executed prior to the issuance of the building permit and commencement of construction. Said agreement shall include provision for an existing condition survey of the approved hauling routes using Town roads be undertaken by the applicant at the applicant's expense, prior to issuance of a building permit and commencement of construction. Any road damage during construction caused by the operator or its subcontractors on Town roads shall be repaired or reconstructed to the satisfaction of the Town Highway Superintendent at the operator's expense.

- xv. A new Subsection I Host Community Agreement is hereby added, as follows:

1. The applicant shall enter into a community host agreement providing a public benefit fee of no less than \$5,000 per MW of energy generating capacity per year either for the life of the project or for a negotiated timespan which will be determined through meeting between the solar energy companies and the Town of Amsterdam.
2. These funds shall be used to mitigate the additional burdens placed on the town as a result of the project, as a source of funding for prospective costs, for expenses associated with and related to anticipated municipal services, for municipal projects that benefit the community, and additional infrastructure improvements to be provided as a result of the project's presence within the town, as well as for potential tax relief for non-project property owners. These funds are to be paid to the Town by the solar energy company, not by the leasing landowner.

5. Severability

The provisions of this chapter are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, clauses, or parts of this chapter.

6. Effective Date

This local law shall take effect immediately, upon filing with the Secretary, as provided under NYS law.

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