



**GARDINER CITY COUNCIL
AGENDA ITEM INFORMATION SHEET**



Meeting Date	09/22/2021	Department	Planning/Economic Dev
Agenda Item	4.f) Proposed amendment to LUO dealing with Solar Electric Production Facilities		
Est. Cost	n/a		

Background Information	<p>As a result of the City's experience with the review and permitting of Solar Electric Production Facilities (SEPFs) and the issues that arose during those processes, the Ordinance Review Committee developed draft ordinance amendments to fine-tune the regulation of these facilities. The Planning Board reviewed the draft amendments, held a public hearing on the draft amendments and made some revisions/corrections to the draft. The attached amendments incorporate the Planning Board's edits.</p>
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Requested Action	" I move to send the proposed amendment to LUO dealing with Solar Electric Production Facilities to a Second Read scheduled for October 6, 2021."
City Manager and/or Finance Review	Acting City Manager approves the above action."
Council Vote/ Action Taken	
Departmental Follow-Up	

City Clerk Use Only	1 st Reading _____	Advertised _____	EFFECTIVE DATE _____
	2 nd Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

To: City Council
From: Planning Board/Ordinance Review Committee
Subject: Treatment of SEPFs
Date: August 16, 2021

As a result of the City's experience with the review and permitting of Solar Electric Production Facilities (SEPFs) and the issues that arose during those processes, the Ordinance Review Committee developed draft ordinance amendments to fine-tune the regulation of these facilities. The Planning Board reviewed the draft amendments, held a public hearing on the draft amendments and made some revisions/corrections to the draft. The attached amendments incorporate the Planning Board's edits.

Here is an overview of the proposals:

1. The ordinance will be revised to create two categories of SEPFs recognizing that building mounted and ground mounted facilities have potentially different impacts on adjacent properties and are appropriate in different zones. The two categories are called Solar Electric Production Facilities – Ground-Mounted and Solar Electric Production Facilities – Building-Mounted. The draft retains the current definition of Solar Electric Production Facility and then adds definitions of the two subcategories that refer to the main definition – a SEPF that is mounted on a building and a SEPF that is mounted on the ground or a support structure attached to the ground.
2. In the Table of Land Uses SEPF is replaced with the two new categories: SEPF – Ground-Mounted and SEPF – Building-Mounted. The Table of Land Uses is revised to indicate where the two new uses are allowed. SEPF – Building-Mounted will be allowed everywhere except in the RP District, the shoreland zones and the HDR District. SEPF – Ground-Mounted would be allowed in the R, RG, PD, MUV, PHD, IT, and CPD Districts.
3. The amendments include provisions requiring enhanced buffering for ground-mounted SEPFs. The amendments include a requirement for a visual impact assessment as part of the review process. The visual impact assessment is required to identify where the installation of a ground-mounted SEPF will be visible from and how the array will be buffered to meet the performance standards. The amendments also establish performance standards for buffering ground-mounted SEPFs that are visible from residential uses.
4. The amendments create performance standards for SEPFs in the use specific performance standards section. For building-mounted SEPFs, the standards limit the height of the array above the roof to 2 feet. For ground-mounted arrays the standards limit the height to twelve feet if the array is visible from a street or

residential property. For ground-mounted SEPFs in addition to enhanced buffering there is a requirement for an increased setback from adjacent residential uses. The performance standard requires a one hundred foot setback for any part of the array that abuts a lot in residential use with a provision that the Planning Board may reduce the setback if it is not needed to provide adequate buffering.

Proposed Amendments Dealing with Solar Electric Production Facilities

Proposed additions to the Land Use Ordinance are underlined;
proposed deletions are ~~stuck-out~~.

1. Amend SECTION 17 DEFINITIONS by adding definitions of Solar Electric Production Facility – Building-Mounted and Solar Electric Production Facility – Ground Mounted in proper alphabetical order to read:
 - Solar Electric Production Facility – Building-Mounted: A Solar Electric Production Facility that is mounted on the roof or exterior wall surface of a building.
 - Solar Electric Production Facility – Ground-Mounted: A Solar Electric Production Facility that is mounted on the ground or on a supporting structure other than a building.
2. Amend Section 7.6.4 Industrial, Wholesale & Transportation Uses in the Land Use Table in Section 7.6 to read:

Industrial, Wholesale & Transportation Uses															
RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Sawmill	N	N	P	N	N	N	N	C	P ⁶	N	N	N	N	N	N
Solar Electric Production Facility - <u>Building-Mounted</u>	N	N	P	P	N ⁴	P	P ⁴	P	P	P	P ⁴	P	P	P	P
Solar Electric Production Facility - <u>Ground-Mounted</u>	N	N	P	P	N	N	N	N	P	N	N	P	P	P	P
Trucking & Freight Facility	N	N	N	N	N	N	N	C	P ⁶	N	N	N	N	N	N
Waste Processing Facility	N	N	N	N	N	N	N	P	N	N	N	N	N	N	N
Wholesale & Warehouse	N	N	N	N	N	N	P	C	P	N	P ⁷	N	P	P	N
Windmill Small	N	P	C	P	P	P	P	C	C	P	P	P	P	P	P
Windmill Mid-size	N	N	P	N	N	N	N	P	P	P	N	N	P	N	N
Windmill Large	N	N	P	N	N	N	N	P	P	P	N	N	P	N	N

3. Amend Section 6.3.4 Additional Information for Applications for Site Plan Review by adding a new section 6.3.4.4 to read:

6.3.4.4 If the application is for a Solar Electric Production Facility – Ground-Mounted, a visual impact assessment identifying all locations where the solar array will be visible from residential uses located within one thousand (1000) feet of any portion of the solar array as measured from the closest part of the residential structure and illustrating how the screening requirements of Section 10.30 will be met. The assessment shall include photos of the pre-development visual conditions and visual simulations of the post development visual conditions incorporating the screening recommended in the assessment. The visual simulations shall show at a minimum the extent of buffering one year and five years after installation.

4. Amend SECTION 10 SPECIAL ACTIVITY PERFORMANCE STANDARDS by adding a new Section 10.30 Solar Electric Production Facility to read:

10.30 Solar Electric Production Facilities

10.30.1 No part of a Solar Electric Production Facility that is mounted on the roof or exterior wall of a building shall project more than two (2) feet from the primary surface of the roof or wall.

10.30.2 No part of a Solar Electric Production Facility that is mounted on the ground or a supporting structure that is not part of a building shall project more than twelve (12) feet above the average grade of the ground beneath each panel if any part of the array is visible from a residential use prior to screening. The Planning Board as part of the review and approval of the site plan for the facility may approve a ground-mounted installation that is higher than twelve (12) feet if the applicant demonstrates that it will not have a negative visual impact when viewed from a public street or a residential use taking into account proposed screening of the array.

10.30.3 No part of a ground-mounted Solar Electric Production Facility shall be located within one hundred (100) feet of the property line of a lot that is improved with a residential use. The Planning Board as part of the review and approval of the site plan for the facility may reduce the setback of the array from the property line of a lot if it finds that:

10.30.3.1 No structural elements of the facility including the solar array will be visible from the residential lot considering the reduction in the setback, or

10.30.3.2 All structural elements of the facility will be screened from view from the residential lot in accordance with the standards of 10.30.4.

10.30.4 A ground-mounted Solar Electric Production Facility shall be screened from view from all residential uses located within one thousand (1000) feet of any portion of the solar array as measured from the closest part of the residential structure. The screening shall provide an opaque visual barrier at least eight (8) feet in height and may consist of one or more of the following:

10.30.4.1 A solid vegetative buffer consisting of plant materials that will provide a year-round visual screen; or

10.30.4.2 A berm combined with a vegetative buffer consisting of plant materials that will provide a solid year-round visual screen; or

10.30.4.3 A solid fence combined with plantings on the residential side of the fence in accordance with Option 3 for a Semi-Full Screen as set forth in 8.11.4.5, or

10.30.4.4 An alternative plan for screening the facility identified in the visual impact assessment and approved by the Planning Board.