

NOTICE OF PUBLIC HEARING

Planning Board Public Hearing – Zoning Changes Town of Henniker Planning Board

The Town of Henniker Planning Board will hold a public hearing on January 8, 2020 at 7 pm at Town Hall, 18 Depot Hill Rd, Henniker NH to discuss the following proposed Zoning Changes:

1. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Amend the following Articles as they relate to setback requirements as follows: Article V, RV Section 133-22, paragraphs D, E, and F; Article VI RN, 133-24 E, F, and G; Article VII RR, 133-26 C, D, and E; Article VIII Commercial, 133-28 A, B and C by replacing the terms “No building shall be constructed...” with No Building/Structure shall be constructed...”. And amend Article II Definitions by amending existing definition of Structure by adding: It shall not include minor installations, such as fences, mail boxes, flagpoles and retaining walls.
2. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Delete in its entirety Article XXIII Open Space Residential Development Sections 133-117: 133-122.
3. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Amend Article X Lot Size Regulations, 133-40, footnote a. by deleting it in its entirety and replacing it as follows: The subdivision of lots located in the RN zone consisting of 10 (ten) acres or more are permitted with a minimum of 50 feet of Frontage. Subdivisions of lots located in the RR zone, Fronting on a gravel road and consisting of 15 (fifteen) acres or more are permitted with a minimum of 50 feet of Frontage.
4. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Amend Article VIII, 13-29 Commercial Uses in the CH Heavy Commercial District, by adding to CH- Permitted Uses, Business Transient Housing. In addition, amend Article II Definitions 133-3, by adding the term Business Transient Housing: Staying at an accommodation for a brief stay, not to exceed 7 days. Occupants of a Business Transient Housing shall not seek nor will they be considered year round residences of the community, year-round residency shall be prohibited. The purpose of Business Transient Housing is to provide businesses with the opportunity to provide temporary housing for its workers.
5. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Amend Article VIII, Commercial District Regulations, Section 133-29, Commercial Uses in CH Heavy Commercial District, adding to the CH Permitted Use Table the following: Existing Manufactured Housing Parks

6. **Are you in favor of amending Chapter 133, Zoning Regulations, as proposed by the Planning Board as follows?** Amend Article IV General Provisions, by adding a new Section 133-21, Solar Energy Systems. In addition amend Article V RV Village Proper District, Article VI RN Residential Neighborhood District, Article VII RR Rural Residential, Article VIII Commercial Districts by allowing by right roof mounted Solar Energy Systems and allow by Conditional Use Permit (CUP) ground mounted Solar Energy Systems.

Section 133-21 SOLAR ENERGY SYSTEMS

A. Authority & Purpose

This renewable energy systems ordinance is enacted under the provisions of RSA 674:21, II Innovative Land Use Controls and in accordance with RSA 674:17.(I)(j), and the purposes outlined in RSA 672:1-III-a as amended. The purpose of this ordinance is to accommodate Solar Energy Systems and Distributed Generation Resources in appropriate locations, while protecting the public's health, safety and welfare. Placing systems in locations that result in loss of prime agricultural lands is strongly discouraged. It is preferable to locate systems on disturbed land, nonproductive farmland and/or rooftops.

B. Goals

- I. Allow for the use of Solar Energy Systems in the community while maintaining Henniker's scenic vistas.
- II. Preserve the community's rural character, particularly as seen from public roads.
- III. Minimize potential adverse impacts of Solar Energy Systems in the community by ensuring that such facilities are properly screened and are properly sited within existing topographic features of the property.
- IV. Ensure consistent maintenance and safety procedures are in place to protect public health.

C. Definitions

- I. **Commercial Solar.** A use of land that consists of one or more free-standing, ground mounted, solar energy systems regardless of rated nameplate capacity and solar land coverage that is designed primarily to serve off-site uses. A Commercial solar energy system may be authorized by Conditional Use Permit (CUP) as a principal use.
- II. **Commercial Solar, Accessory.** A solar energy system for on-site commercial use, and consisting of one or more free-standing, ground or roof/building-mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.
- III. **Community Solar.** A shared solar energy system that serves residences and or commercial/industrial structures situated on two or more contiguous lots. The system is considered accessory to the uses on each of the lots that it serves.
- IV. **Ground Mount, Free-Standing.** A solar energy system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including, but not limited to, fixed, passive, or active tracking racking systems. Ground mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).
- V. **Pole Mount, Free Standing.** Solar Energy System, Pole-Mounted. A solar energy system that is directly installed on specialized solar racking systems, which are attached to a pole that is anchored and firmly affixed to a foundation in the ground, and wired underground to an attachment point at the building's meter. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year. Pole mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).
- VI. **Residential Solar, Accessory:** A solar energy system for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.

- VII. **Roof/Building Mount.** A solar energy system that is structurally mounted to a roof or attached to a building. The system shall be no taller than 5 feet above the ridge line of the roof and not extend beyond the building footprint more than 5 feet. The system may include limited accessory equipment that is ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof or building mounted portions shall not be included if the system is made up of both roof or building and ground mounted systems. The building inspector may require information demonstrating that the roof or building can support the solar energy system, with additional supports if necessary.
- VIII. **Solar Energy System:** A device and/or structure the purpose of which is to collect, convert and/or store, and/or distribute solar energy for power, heating and/or cooling, and/or water heating.
- IX. **Solar Energy System, Roof-Mounted:** An Active Solar Energy System that is structurally mounted to the roof of a building or structure.
- X. **Solar Energy System, Ground-Mounted:** An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted. Ground mounted solar arrays or modules may be authorized by Conditional Use Permit only (CUP).

D. Applicability

- I. General. Any person seeking to construct any ground mounted or pole mounted solar energy system shall apply to the Planning Board for a conditional use permit.
- II. Any person seeking to construct or to carry out ground mounted commercial or community solar energy system shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Town’s Site Plan Review Regulations.
- III. Building Permit. No solar energy system shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. Furthermore, a building permit shall be required for any physical modifications to an existing solar energy system.
- IV. Any upgrade, modification or structural change that materially alters the size, placement or output of an existing solar energy system shall comply with this ordinance.
- V. All solar energy systems shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards.

E. Solar Energy Systems Shall Conform to the Following:

- I. Use - Installations shall be permitted according to the following table:

	RV	RN	RR	CH	CM	CR	CR-1	CV
Roof Mounted	Y	Y	Y	Y	Y	Y	Y	Y
Ground Mounted/Pole Mounted Residential	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Ground Mounted/Pole Mounted Commercial	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Ground Mounted/Pole Mounted Community	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Y = Allowed; **N** = Prohibited; **CUP** = Conditional Use Permit (All CUP applications require site plan review approval from the Planning Board);

- II. **Setbacks** - Installations shall, at a minimum, conform to the applicable Zoning District setbacks. However, setbacks may be increased during the conditional use permit and site plan review processes as determined by the Planning Board to address site specific challenges.
- III. All solar or photovoltaic systems shall have a disconnect next to the public utility meter and shall meet all applicable codes.

F. SOLAR ENERGY SYSTEM - CONDITIONAL USE PERMITS

- 1. **Permit Required:** No Solar Energy Systems, except Roof Mounted Systems, shall be erected, constructed, installed or modified without first receiving a Conditional Use Permit (CUP) from the Planning Board.

2. Application and Review Procedure:

An Application for a Conditional Use shall be initiated by filing with the Planning Board an application for a Conditional Use Permit. The following procedures shall apply to the processing of such application:

- a. **Site Plan Approval Required:** A site plan application shall be submitted with any application for a Solar Energy System Conditional Use Permit. The application and review procedure for a CUP shall be made concurrently and in accordance with the Site Plan Regulations as applicable to the particular development.

3. Standards of Review: Following a fully noticed public hearing on the proposed use, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that:

- I. The use is specifically authorized as a conditional use;
- II. The development in its proposed location will comply with all requirements of the Henniker Site Plan Regulations, as well as specific conditions established by the Planning Board.
- III. The use will not materially endanger the public health or safety;
- IV. The use may provide adequate screening to ensure adjacent property values are not adversely impacted. Screening may be provided by maintaining existing vegetation or through the installation of site specific evergreen landscaping, suitable fencing, or a combination thereof. Such screening shall be maintained during the operative lifetime of the Solar Energy System Conditional Use Permit.
- V. In granting a conditional use permit pursuant to this section, the Planning Board may impose any reasonable conditions or restrictions deemed necessary to carry out the intended purpose of this ordinance and to minimize any adverse effect of the proposed solar energy system on adjoining properties.

The Planning Board reserves the right to waive any provision of this Ordinance if the Applicant proves to the Planning Board that the requested waiver will not be detrimental to public safety, adjacent property values or the rural character.

G. Abandonment or Decommissioning (Ground Mounted)

- I. Abandonment shall be considered failure to operate for a 12-month period. At such time that a Solar Energy System is scheduled to be abandoned or discontinued, the applicant will notify the Planning Board by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- II. Upon abandonment, decommissioning or discontinuation of use, the owner shall physically remove the Solar Energy System within 90 days from the date of abandonment, decommissioning or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Planning Board. "Physically remove" shall include, but not be limited to:
 - i. Removal of the Solar Energy System and related above-grade structures.
 - ii. Restoration of the location of the Solar Energy System to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
- III. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous 12-month period. After the 12 months of inoperability, the Planning Board may issue a Notice of Abandonment to the owner of the Solar Energy System. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the date of receipt. After review of the information provided by the owner, the Planning Board shall determine whether the Solar Energy System has been abandoned. If it is determined that the Solar Energy System has not been

abandoned, the Planning Board shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

- IV. If the owner fails to respond to the Notice of Abandonment or if, after review by the Planning Board, it is determined that the Solar Energy System has been abandoned or discontinued, the owner of the Solar Energy System shall remove the system at the owner's sole expense within 90 days of receipt of the Notice of Abandonment.
- V. If the owner fails to physically remove the Solar Energy System after the Notice of Abandonment procedure, the Planning Board may pursue legal action to have the system removed at the owner's expense.

H. Violation

It is unlawful for any person to construct, install, or operate a Solar Energy System that is not in compliance with this ordinance. Solar Energy Systems installed prior to the adoption of this ordinance are exempt from this ordinance except when changes to the layout and expansion of the foot print are proposed to the Solar Energy System.

I. Penalties

- I. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes.
- II. All solar energy systems shall be designed, erected and installed in accordance with all applicable local, state and federal codes, regulations and standards.