

A G E N D A
ASTORIA PLANNING COMMISSION

<i>Astoria City Hall Council Chambers, 1095 Duane Street, Astoria</i>
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Tuesday, July 23, 2012

Immediately Following the Traffic Safety Committee Meeting at 7:00 p.m.

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES
 - a. June 25, 2013
4. REPORT OF OFFICERS
5. ADJOURNMENT
 - a. After adjournment, the Planning Commission will reconvene for a work session.
 - Solar Power Ordinance

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
June 25, 2013

CALL TO ORDER:

President Innes called the meeting to order at 7:44 p.m.

ROLL CALL:

Commissioners Present: President McLaren Innes, Vice-President Mark Cary, Al Tollefson, David Pearson, and Zetty Nemlowill

Commissioners Excused: Kera Huber

Commissioners Absent: Thor Norgaard

Staff Present: Community Development Director Brett Estes, Planner Rosemary Johnson, and City Attorney Blair Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services Inc.

Planner Johnson noted Commissioner Huber had asked her to convey her regrets that she was unable to attend due to illness.

APPROVAL OF MINUTES:

Item 3(a): May 6, 2013

Item 3(b): May 28, 2013

President Innes asked for approval of the minutes of the May 6, 2013 and May 28, 2013 meetings. Commissioner Nemlowill moved to approve the minutes; seconded by Commissioner Tollefson. Motion passed unanimously.

PUBLIC HEARINGS

President Innes explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff.

ITEM 4(a):

CU 13-03 Conditional Use CU 13-03 by Lawrence Cary to locate a distillery as light manufacturing and conduct indoor entertainment of distillery tours with tasting room and retail sales at 1270 Duane in the C-4 Central Commercial zone.

President Innes asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. President Innes asked if any member of the Planning Commission had a conflict of interest or any ex parte contacts to declare. Commissioner Nemlowill declared that she owns a brewery nearby, but she did not believe her brewery produced the same product as the Applicant's business. Because the Applicant's product would not have a negative impact on her revenues, Commissioner Nemlowill believed she could make an unbiased decision.

Planner Johnson reviewed the written Staff report. No correspondence has been received and staff recommends approval of the request with conditions.

Hearing no questions for Staff, President Innes opened the public hearing and called for testimony from the Applicants.

Darren Doss, 4900 Ash Street, Astoria and Lawrence Cary, 286 Lexington Avenue, Astoria, introduced themselves. Mr. Doss stated he is the architect on the project and could answer any questions or respond to any concerns from the Planning Commission.

Vice-President Cary asked how long it would be before the business opened and if a bar would be part of the business. Mr. Cary responded it would probably open in September 2013 and the business would include a tasting room. Mr. Doss added the business would include a retail outlet for spirits.

President Innes asked the Applicants what product they planned to distill. Mr. Cary stated they would begin distilling clear liquors, including vodka and gin. Eventually, they would distill rum and aged liquors like whiskey. Mr. Doss added the spirits will be named after local icons and will become an export of Astoria.

President Innes called for public testimony in favor of, impartial, or opposed to the application.

Rosemary Baker Monahan, 1880 South Edgewood, Seaside and Liberty Theater Director, spoke in favor of the application adding that the distillery will be a great addition to the neighborhood.

Drew Herzig, 628 Klaskanine Avenue, Astoria, spoke impartial to the application. He confirmed the business would be required to obtain a liquor license and asked if it would be difficult to move the business in five or ten years as this is somewhat of a temporary use of the facility. Mr. Cary responded that moving would not be difficult. An application with the federal government would need to be reprocessed and the Applicants must notify the Oregon Liquor Control Commission that they would be moving to a new location. Production would need to be shut down for a short period of time.

Director Estes stated that he understood Mr. Herzig was asking if the equipment would be easy to dismantle and reassemble. Mr. Cary replied it is very simple as his fermentation equipment is on wheels and the 200-gallon still would be pallet jacked and moved with a forklift. The distilling process is very simple and he would be happy to show how it works.

President Innes confirmed there was no further public comment or discussion and closed the public hearing.

Planner Johnson corrected the conditional use number on the agenda from CU13-08 to CU 13-03.

Commissioner Nemlow moved to adopt the Findings and Conclusions contained in the Staff report and approve Conditional Use CU13-03 by Lawrence Cary to locate a distillery as light manufacturing and conduct indoor entertainment of distillery tours with tasting room and retail sales at 1270 Duane in the C-4, Central Commercial Zone; seconded by Commissioner Pearson. Motion passed unanimously.

President Innes read the rules of appeal into the record.

OLD BUSINESS

Item 5(a): Transportation System Plan Update

Director Estes stated this update is a follow up to the discussion that occurred during the Traffic Safety Commission meeting. He noted that three neighborhood meetings held a few weeks prior had very good attendance.

- The meeting for the Uniontown and Bond Street neighborhood had 24 attendees and discussion centered on opening Bond Street to two-way traffic, as well as the road diet (lane reduction) concept for Marine Drive and West Marine Drive. Some of the concerns raised by Bond Street residents were addressed by implementing pedestrian improvements on Bond Street prior to proceeding with any road diet improvements on Marine Drive. This would prevent more traffic from shifting over to Bond Street due to installation of traffic slowing mechanisms to slow down traffic on Bond Street.
- The meeting that focused on the downtown area had 50 attendees and the main issue was the concept of having two-way traffic completely throughout downtown, which would essentially put the highway to Marine Drive. Moving the highway would require the removal of on-street parking on both sides of Marine Drive. The

majority of people attending the meeting opposed that scenario, though a few people did support the concept.

- After hearing from attendees that Marine Drive and Commercial Street should remain a couplet, discussion turned to the issue of having two-way traffic throughout the rest of downtown. About half of those attending supported that concept and the Transportation System Plan (TSP) Committee members are split on the idea as well. Discussions will continue at another meeting.
- The third neighborhood meeting focused on the Niagara Avenue/7th Street and Highway 202-Olney Avenue/Business Highway 101 intersections. About 19 people attended to discuss possible pedestrian enhancements along Niagara and 7th Streets, including narrowing the streets, slowing down traffic through the area and implementing some improvements near Peter Pan Market.
- A suggestion taken from the Miles Crossing / Jeffers Garden TSP was to install a roundabout at Highway 202 and Business Route 101. Owners of the Shortstop Market expressed concerns that access to their business would be severed from Highway 202 based upon an initial concept drawing. Most of the attendees supported the roundabout if it could be moved to the southeast and provide access to the Shortstop Market.
- A follow up TSP Committee meeting was held last week and another meeting is scheduled for next week. At these meetings, the Committee listens to all the public feedback to develop recommendations that will be presented to the Planning Commission and City Council for consideration.

President Innes asked if the roundabout near Shortstop Market would include crosswalks. Director Estes replied there would be pedestrian enhancements between the Shortstop Market and the apartment complex formerly known as Riverine Apartments. ODOT is considering some short-term pedestrian improvements for the summer of 2014. A curb with a sidewalk and a rail will be built where cars are currently parking along the apartment complex. The rail will guide pedestrians to a crossing that connects to the Shortstop Market.

REPORTS OF OFFICERS/COMMISSIONERS: No reports

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:02 p.m.

ATTEST:

APPROVED:

Secretary

Community Development Director /
Assistant City Manager



July 19, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER

SUBJECT: SOLAR ENERGY ORDINANCE DRAFT WORK SESSION

Over the last two years, the Astoria Planning Commission has held several 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. Several questions on specific issues in the draft were not fully discussed and some issues were still undecided.

The attached revised draft addresses many of the issues raised by the APC, Historic Landmarks Commission, and citizens who have responded to the draft documents. At the July 23, 2013 meeting, the APC will hold a work session to review the current draft code language and general aspects of the solar energy code. There are several sections with notations by staff that are *{italicized and bracketed}* that will need further discussion or specific direction from the APC concerning the draft language or requirement. Due to the complexity of the issues, the following is a list of questions that still need to be discussed and/or explanation of how the draft addresses the issues raised previously.

1. Regulations required by HB 3516 have been incorporated into the draft. One change is that the State law refers to "residentially utilized properties in zones where residential use is allowed". To make it even easier for a permit in Astoria, the draft refers to "residentially utilized properties" no matter where they are located. With this change, a non-conforming residence in a non-residential zone would have the same ease of permitting as a residence in a residential zone.
2. There is an exemption for any permit requirements for a facility of less than four square feet mounted on a non-primary elevation roof. This would allow for easy installation of a single panel. There is also an exemption for landscaping/fence solar items of 1 sqft or less.
3. Outright, free, over-the-counter permits would be allowed if it meets the three criteria listed such as: no increase in footprint, does not exceed peak of roof, and is mounted parallel to the roof.
4. Administrative permits by staff with public notice would be allowed for small projects that meet the criteria listed such as: increase in footprint, exceeds peak of roof, or is not

parallel to the roof; or for ground mounted facilities of less than 200 square feet and less than 20' tall. **Is 200 square feet too large for administrative review with public notice?**

5. Planning Commission review would be for all other facilities that do not meet the specific criteria for administrative review.
6. The APC discussed limiting freestanding solar facilities to 6' to 10' in residential areas with no variances in residential zones, and 20' in commercial areas. Commercial zones could apply for a variance. A 6' height in residential areas would be the same as the allowable fence height and would be allowed outright. The height up to 10' would be an administrative review with public notice. This would allow smaller facilities in residential zones and give the flexibility for 20' height in commercial areas with larger ones on a case by case basis through a variance.
7. Application requirements for Outright Uses is the minimal needed to review and confirm the outright use compliance.
8. Safety and Insurance – For freestanding facilities over 20' in height, there is a requirement for insurance. This would only be required if a variance is granted to exceed the 20' maximum of the ordinance.
9. The Procedures section was moved to Article 9 which is the Administrative Procedures for all permits. Only requirements unique to solar facilities is included in this section.
10. Public notice is provided for permits reviewed by APC. **Should there be an additional display ad for freestanding solar facilities that exceed the 20' height or other criteria determined by the APC?**
11. The APC discussed the issue of firefighter safety. Solar facilities do not stop producing electricity and are "live" while the firefighters are at the site. A requirement that the solar permit be sent to the Fire Department after approval has been added. This will allow the Fire Department to note which buildings have solar facilities to help prevent accidents. The Fire Chief is researching the issue of how much of a building roof should be covered with solar panels. There is the issue of access to the roof for firefighting and venting which cannot be accomplished with full roof active solar panels. This will be addressed in the next draft.
12. The question was raised about the tilt of the panel needed for maximum efficiency. That would be site specific and technology specific. The draft allows the standard panel parallel to the roof as an outright permit and if the panel is not parallel or is moveable, then it could be reviewed administratively with public notice. Most residential applications are parallel to the roof.

The Historic Landmarks Commission (HLC) will also review the draft for historic related issues at a future HLC meeting. The APC requested that staff prepare some scenarios to show how permits would be processed. Attached are three scenarios that show how some of the issues would be processed. It is anticipated that a public hearing would be scheduled before the APC in the next few months.

Scenario 1:

Applicant wants to install a solar panel on the roof of a single-family dwelling.

It will not exceed the peak height of the portion of the roof on which it is installed.

The panel is mounted so that the plane of the system is parallel to the slope of the roof.

Process:

Solar permit issued free over-the-counter.

Building permit may be required per International Building Code.

If structure is designated historic, there may be Historic Landmarks Commission or Historic Preservation Officer permit review. If not a primary elevation and is less than 25% of the roof, may be free over-the-counter review.



Scenario 2:

Applicant wants to install a solar panel on the roof of a single-family dwelling.

It will exceed the peak height of the portion of the roof on which it is installed.

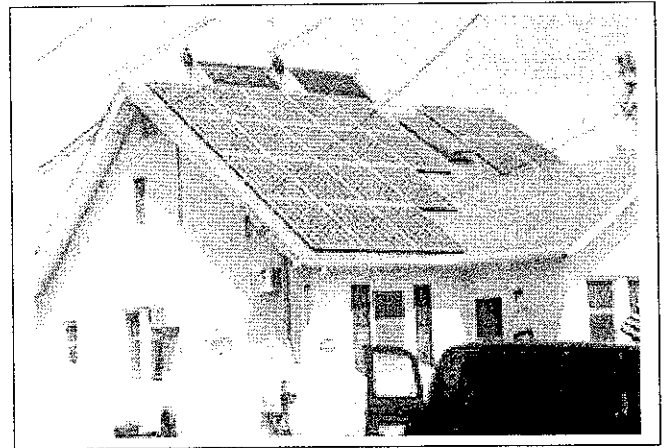
The panel is mounted so that the plane of the system is parallel to the slope of the roof.

Process:

Administrative solar permit reviewed by Community Development Department after public notice.

Building permit may be required per International Building Code.

If structure is designated historic, there may be Historic Landmarks Commission or Historic Preservation Officer permit review.



Scenario 3:

Applicant wants to install a **ground mounted** solar panel for a single-family dwelling.

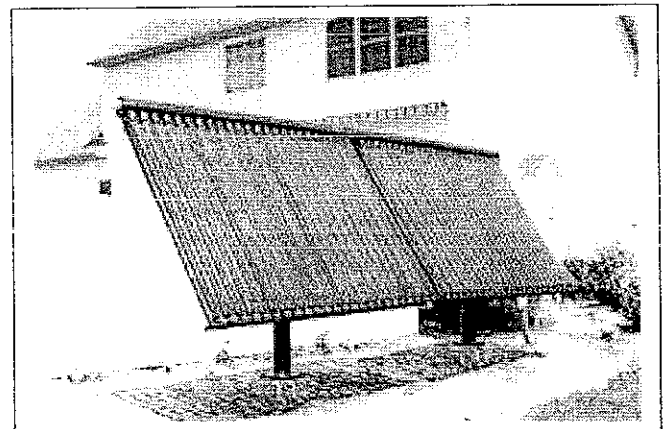
It will exceed 200 square feet.

Process:

Solar permit reviewed by Planning Commission at public hearing.

Building permit required per International Building Code.

If structure is designated historic, there may be Historic Landmarks Commission or Historic Preservation Officer permit review.



{This is a working draft. This version separates wind and solar sections for clarity of standards. Additional work may need to be done on all sections. Formatting and numbering have not been done as sections are still being moved around. Italic notes will be removed from final code.}

{A copy of HB 3516 concerning solar facilities for cities is attached and has been incorporated into this draft.}

ARTICLE 16

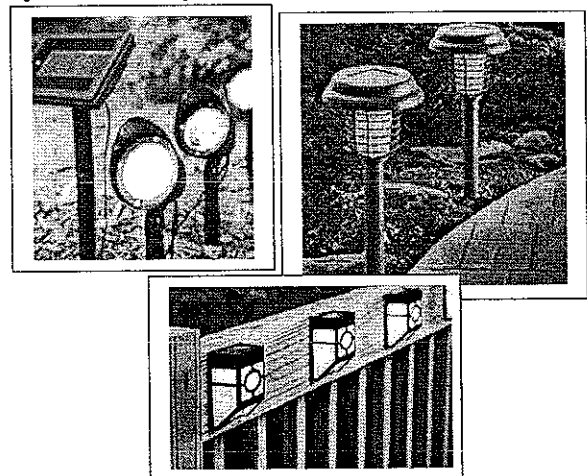
STANDARDS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

16. 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. 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. The provisions of this Article do not apply to the following:
 - 1. A solar facility of less than four (4) square feet mounted parallel to the slope of the roof on which it is installed (less than 1' above the plane of the roof) on a non-primary elevation of a structure that is not visible from the streetscape. However, if located on a historic property, the facility would still require historic design review.
 - 2. A solar facility of less than one (1) square foot mounted on a structure to produce light such as a fence post or landscape/walkway lighting.



16. DEFINITIONS.

{Industry definitions refer to kWh. The technology is changing quickly and the kWh is not what is being controlled by this ordinance. The key issues are impacts on neighborhoods, aesthetic qualities, and the environment. Therefore, this code defines the features by visual size as there may be ways to increase kW with smaller units in the near future.}

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 metal 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. *{need to either define separately or add here for tubular.}*

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.

{This definition is included to avoid repeating "small scale solar energy system" throughout the entire document.}

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 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. 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.

{With HB 3516, we must allow solar facilities wherever we allow residential and commercial buildings. These zones are conservation and natural but have limited development allowable uses. HB 3516 does allow some limitations in areas designated as "significant scenic resources" with certain design limitations. We do not have any significant scenic resources designated at this time. This would also be consistent with the goals of the Riverfront Vision Plan for these areas.}

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.

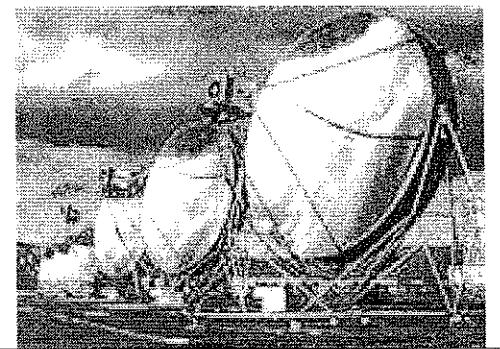
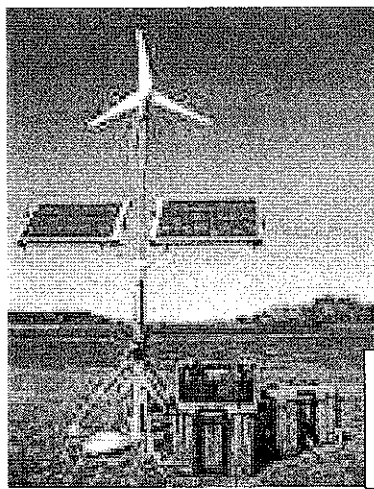
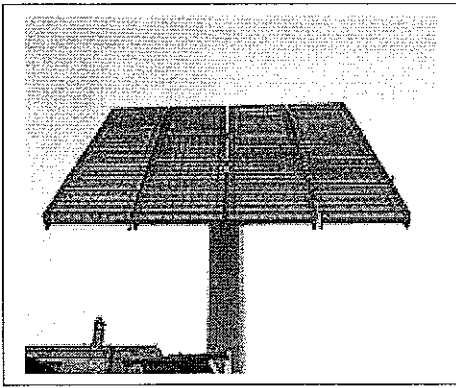
1. Camouflaged / Concealed Design;
2. Location on Existing Support Structure or Existing Alternative Support Structure;
3. Location on New Support Structure;
4. Location within Restricted Zones.

D. Prohibited Structures.

The following structures are prohibited:

1. Lattice and guyed wire towers and support structures and speculation ("spec") support structures are prohibited.
2. Freestanding solar facilities exceeding 20' in height to the highest point are prohibited.

{should discuss if we want to prohibit solar on towers or poles completely, or if a specific height should be prohibited. Solar does not need the height associated with wind turbines. See the examples below.}



Examples of freestanding solar units that could possibly be prohibited based on height.

E. Number of Facilities.

Only one solar facility, other than those listed in 16.**(*) below, {HB 3516 exemptions} 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. 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.

*{HB 3516 allows for permit review but no fee for the exempt facilities listed in 16.** B applicability above}*

C. Historic 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.

{May need to amend Historic Preservation Ordinance to allow staff review of some facilities.}

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. Facilities are still subject to the standards of this Code.

16. ZONING PERMIT REVIEW.

A. Administrative Review – Outright Use.

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

{“Highly visible” is generally discretionary but with the definition provided, it clarifies what is and is not considered as highly visible. Commission should determine whether the “not highly visible from a street scape” is clear and concise enough for administrative outright review based on the definition.}

1. A solar facility may be approved as an outright use if it complies with the following criteria. Historic design review may be required except as noted in Section 16.***1.c below:

- a. Residential Utilized Property. *{HB 3516}*

Photovoltaic roof-mounted panels located on any residential structure in a zone that allows residential structures that:

{HB 3516 allows the restriction to “a residential zone” but if a property is developed as residential, does it matter if it is a non-conforming use in that zone?}

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

- b. Non-Residential Utilized Property. Commercial. *{HB 3516 language – they use the term “commercial” which could be limiting when looking at other uses such as public or industrial. Suggest using the same term we use in Wireless Communication Facility Ordinance which is “non-residential”}*

Photovoltaic roof-mounted panels located on any non-residential commercial structure in a zone that allows non-residential commercial structures that:

{As opposed to "residential" non-conforming structures, commercial non-conforming structures could be an intrusion into a residential zone and it may be best to keep the allowable language per HB 3516}

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

c. Historic Designated Properties.

An administrative Type I Certificate of Appropriateness may be issued for Photovoltaic roof-mounted panels located on any residential structure in ~~a zone that allows residential structures~~ or on any commercial-non-residential structure in a zone that allows non-residential commercial structures, that is 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, that:

- 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.

d. Photovoltaic panels 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.

e. Roof-mounted solar water heater 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 visible from the street scape.

B. 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. Installation of a solar photovoltaic energy system or solar thermal energy system that meets the following:
 - a. Residential. *{These are the ones HB 3516 does not exempt. Is there any concern with solar facilities on non-conforming residential properties? If not, we could eliminate subsection 1 below. The other items are the same as the commercial review. }*
 - ~~1) on a residential structure in a zone that does not allow residential structure; or~~
 - 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.
 - b. Non-Residential. ~~Commercial.~~ *{These are the ones HB 3516 does not exempt. It would be important to review non-conforming commercial structures in residential areas more than non-conforming residential noted above.}*
 - 1) on a non-residential ~~commercial~~ structure in a zone that does not allow non-residential ~~commercial~~ structures; or
 - 2) increases the footprint of the structure; or
 - 3) exceeds the peak height of the portion of the roof on which it is installed; or
 - 4) is mounted so that the plane of the system is not parallel to the slope of the roof.
2. Installation of a freestanding solar photovoltaic energy system or solar thermal energy system that is not mounted on a building.
 - a. Photovoltaic panels mounted on poles or the ground that:
 - 1) generate power for that structure or adjacent uses; and
 - 2) do not exceed 200 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.

{Need to decide if we want to allow pole mounted facilities and to what height. This is tied to the requirement being deleted elsewhere in the code requiring review of view corridors. Is the 200 sqft too large for admin review.}

- b. Roof-mounted solar water heaters located on any structure that:
 - 1) heat water for that structure; and
 - 2) are less than 50% of the roof area on which they are located.

C. Planning Commission Review.

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.

16. APPLICATION SUBMITTAL REQUIREMENTS.

- A. All applications for permits for the placement and construction of solar facilities shall be accompanied by the following:
 1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting, 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.**** {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.**** {HB 3516}
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.****

{This is to determine the impact of different facilities relative to the light reflected from the material used onto adjacent properties.}
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;

{If we eliminate the tall freestanding facilities, we could eliminate Section 10.a and avoid the reference to view corridor, and just deal with the roof mounted facilities in 10.b.}
 - b. Perspectives from above the site for roof mounted facilities;

Not required for facilities listed as Outright in Section 16.**** {HB 3516}

*{Outright Use Consideration: These perspectives would assist in the determination of whether a facility is "highly visible" for outright uses. If the "highly visible" criteria is removed from the outright use section, this item should state "Not required for facilities listed as Outright in Section 16. ****".}*
11. Landscape and/or screening plan as required by Section 16.*****E.

12. Applicant shall submit the fee, ten (10) copies of a complete application and plans, and other required information in accordance with Article 16. Only one copy shall be submitted for applications reviewed administratively as an outright use that do not require Administrative Conditional Use or Planning Commission Conditional Use review. Digital copies of plans and required information is encouraged.

{Some cities are requiring an energy audit prior to installation of wind turbines or solar facilities as the energy efficiency impact is sometimes greater by performing interior conservation methods such as insulation of attics. The APC previously determined that "efficiency" should not be a requirement to have alternative energy facilities.}

16. STANDARDS AND REVIEW CRITERIA FOR SOLAR FACILITIES.

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.*** 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.

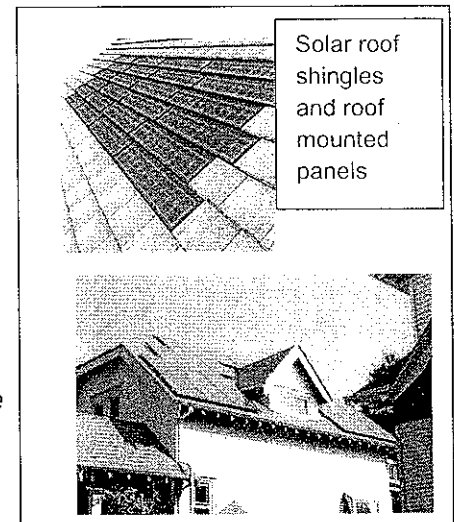
{These standards are based on recommended standards from the National Trust for Historic Preservation, National Park Service, and National Alliance of Preservation Commissions.}

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:

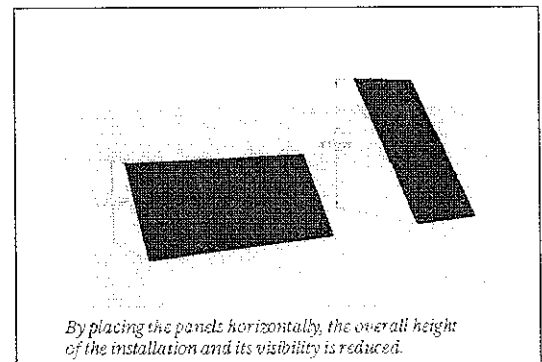
1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Astoria Historic Properties Ordinance and National Historic Preservation Act (NHPA).
2. Roof mounted solar facilities should be located on non-primary roof elevations of historic 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 regardless of the historic status of the individual site. 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.

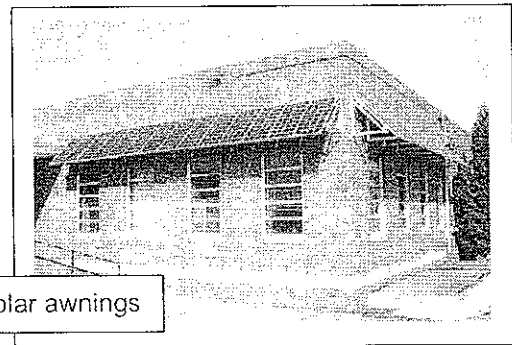
{this has been an issue in other cities in that solar shingles are less visible and may have been a better solution than large roof mounted panels. we should look at whether we want to consider these options first.}



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.



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.

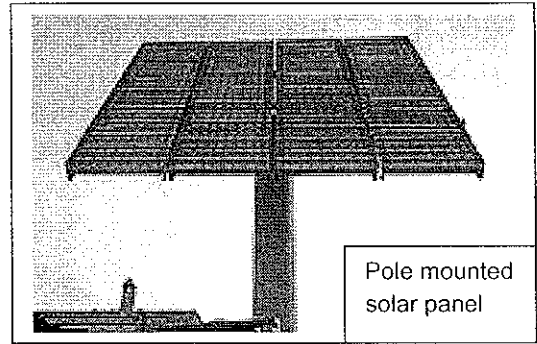
{Need to amend Article 6 to allow these reviews and by what granting authority.}

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. A variance from height may not be granted for a solar facility on a single or two-family dwelling site, or in a residential developed area or zone.

(Solar units do not need to be as tall as wind and therefore should not need variances as often, if ever. Need to determine if restricted only in residential zones, or to include residential "developed" areas too even if not a residential zone.)

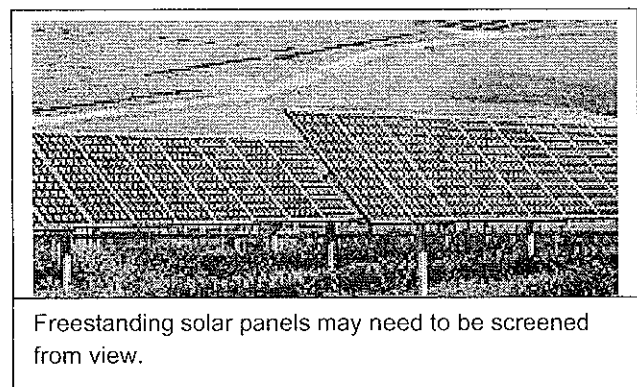
3. If there is not a height limit in the underlying zone, the maximum height of a facility on a structure shall be 45' feet. Freestanding solar facilities shall not exceed a maximum height of 10' on residential utilized properties or in residential developed areas or zones. Freestanding solar facilities shall not exceed a maximum height of 20' in non-residential developed areas or zones.

{this might need to be changed depending on whether the APC determines that tall freestanding solar facilities are prohibited.}

4. 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. Safety and Insurance.

For freestanding solar facilities of 20' or greater in height, the following shall apply:

1. Prior to issuance of a building permit, the applicant shall provide the City proof of a level of insurance in an amount established by the City, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The facility owner shall maintain the required insurance as long as the solar facility is located at the site.

(should the City be named on the insurance policy when in close proximity to a City right-of-way or facility? We will check with the City Attorney on this. We do require insurance on private use of our facilities such as the trolley line.)

16. 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.

Failure of the applicant, co-applicant, and/or property owner to reimburse the City for the required work completed shall become a lien on the property and shall be subject to a 7% interest per year plus administrative costs.

{May want to consider eliminating the reimbursement section and just stating that it would be declared a nuisance and be subject to the City Code Nuisance Abatement ordinance.}

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. 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.

B. Access Driveways and Parking.

New or additional access driveways and parking area 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:

(need to determine if applies to residential zones or any residentially "developed" area regardless of zone.)

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.

C. 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.

D. 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.

E. Underground Utilities.

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

16. 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 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.

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. FEES.

Applicant shall pay the filing fee as set by the City at the time of submission of an application. Actual costs incurred in processing the application shall be billed from the filing fee. Should actual costs exceed the application fee, 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.****. *{HB 3516 prohibits fees for these}*

The City shall determine all expenses and return any remaining filing fee 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.

{It is recommended that an administrative outright use permit be a fee of \$250; administrative conditional use and Planning Commission conditional use permits should be a fee of \$400 plus a \$600 deposit.}

16. 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.**** *{HB 3516}*

{A bond should be held until the facility is fully installed, meets all conditions of the permit, and is operational.}

16. TECHNICAL EXPERT SUPPORT.

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, those required under this Section and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required.

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

16. PROCEDURES. *{This section will be combined in with Article 9 which is the chapter that deals with all land use procedures. It is included here so you can see the process.}*

~~A. Pre Application Meeting.~~

~~Prior to submittal of the 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.~~

A. Application.

Applicant shall submit the fee, ten (10) copies of a complete application and plans, and other required information in accordance with Article 16. Only one copy shall be submitted for applications reviewed administratively as an outright use that do not require Administrative Conditional Use or Planning Commission Conditional Use review. Digital copies of required plans and required information is encouraged.

B. Mailed and Published Notice.

For applications reviewed as an Administrative Conditional Use or Planning Commission Conditional Use, public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9.

~~1. Mailed Notice.~~

~~a. Administrative Conditional Use~~

~~Public notice shall be mailed to property owners of record within 100' feet of the subject property in accordance with Article 9. Notice shall also be sent to those parties noted in Section 16.*** "Notice to Other Agencies".~~

~~b. Planning Commission Conditional Use~~

~~Public notice shall be mailed to property owners of record within 250' feet of the subject property in accordance with Article 9. Notice shall also be sent to those parties noted in Section 16.*** "Notice to Other Agencies".~~

{these requirements are included in Article 9. Since admin permits are limited, the 100' would conform with standard CU and Variance permits. The 250' would expand the area slightly since solar facilities should not be tall. For wind, the notice distance could be larger due to the visual impact.}

~~2. Published Notice.~~

~~A public notice shall be made in accordance with Article 9~~

1. Notice to Other Agencies.

In addition to the notices required in Article 9, for applications reviewed as an Administrative Conditional Use or Planning Commission Conditional Use, public notice to other agencies shall be sent to the City of Astoria Public Works Director, City of Astoria Fire Department, Clatsop County Planning Department, Clatsop County Assessment and Taxation 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 applications reviewed by the Planning Commission, 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.

{If we eliminate the tall freestanding solar facilities, a display ad should not be required.}

C. Decision.

1. Administrative 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. 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. Planning Commission 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. 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. APPEALS.

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

ARTICLE 9
Draft Amendments related to Solar Ordinance
July 19, 2013

9.010. APPLICATION INFORMATION AND PROCEDURES.

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.

9.020. PUBLIC NOTICE.

B. Mailed Notice - Distribution, Time Requirements.

1. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:
 - a. Legislative amendment to the Development Code text or Land Use and Zoning Map - None.
 - b. Quasi-judicial amendment to the Development Code text or Land Use and Zoning Map - 100 feet.
 - c. Conditional Use - 100 feet.
 - d. Variance - 100 feet.
 - e. Miscellaneous Review - 100 feet.
 - f. Historic Property Exterior Alterations, New Construction, Demolition or Moving Permits - 100 feet.
 - g. Historic District Establishment - Owners of property ~~abutting~~lying on or within the boundaries of the proposed District.
 - h. Appeals - Parties to the record.
 - i. Design Review - 100 feet.

(Section 9.020(B.i) added by Ordinance 98-04, 5-4-98)

j. Wireless Communication Facility – 500 feet.

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

l. Solar Facility, Planning Commission Conditional Use – 250 feet.

2. Addresses for a mailed notice required by this Code shall be obtained from the County Assessor's real property tax records. Failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice. In addition to persons to receive notice as required by the matter under consideration, the Community Development Director may provide notice to others he has reason to believe are affected or otherwise represent an interest that may be affected by the proposed action.
3. ~~In establishing historic preservation districts notices shall be sent by mail to the owners of property abutting the proposed district.~~
4. 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.