



TOWN OF BENNINGTON

TO: Chair, Town Planning Commissions, Towns of: Glastenbury, Pownal, Shaftsbury, Woodford and Hoosick, NY, and Villages of: Old Bennington and North Bennington, Vermont Department of Housing and Community Development, Bennington County Regional Commission

FROM: Barry Horst, Chairman, Town of Bennington Planning Commission, 205 South Street

Date: January 5, 2016

Re: Proposed amendment to Bennington Town Plan

Enclosed is one copy of the proposed amendment to the Bennington Town Plan text regarding the siting of solar electricity generation facilities, and a copy of the report regarding the proposed amendment.

The Planning Commission has scheduled a Public Hearing to consider the adoption of the proposed amendment to the Town Plan on Monday, February 15, 2016 at 6:00 p.m. at the Bennington Fire Facility, 3rd Floor Assembly Room, 126 River Street, in Bennington, Vermont. If the amendment is approved by the Planning Commission, it will be submitted to the Select Board for review and approval.

Per 24 VSA, Chapter 117 § 4384 (e) the Bennington Planning Commission is soliciting comments, especially from Bennington's municipal neighbors and the Bennington County Regional Commission, through this notice.

Please address any questions, comments, or concerns, to my attention at the above address at your earliest convenience. Thank you.

Enc: Proposed amendment to Bennington Town Plan, report, and Legal Notice for Planning Commission Public Hearing.

**PLANNING COMMISSION
NOTICE OF PUBLIC HEARING
AMENDMENT TO
BENNINGTON TOWN PLAN**

The Bennington Planning Commission will conduct a Public Hearing on Monday, February 15, 2016 at 6:00 p.m. at the Bennington Fire Facility, 3rd Floor Assembly Room, 126 River Street in Bennington, Vermont for the purpose of adopting an amendment to the Town Plan for the Town of Bennington. The amendment establishes criteria for the siting of solar electricity generation facilities.

A. STATEMENT OF PURPOSE:

The proposed amendment to the Bennington Town Plan establishes criteria for the siting of solar electricity generation facilities for the purpose of maintaining Bennington's scenic views and traditional settlement pattern of a compact downtown center surrounded by rural countryside.

B. AREA COVERED

The proposed amendment to the Town Plan impacts all areas of the Town of Bennington.

C. SECTIONS OF PROPOSED AMENDEMENT

Community Standards

Plan Conformance
Benefits
Impacts
Decommissioning

Solar Facility Siting

Siting Requirements
Preferred Areas
Prohibited Areas
Mass and Scale

D. WHERE THE FULL AMENDMENT MAY BE EXAMINED:

Copies of the full text of the proposed amendment to the Bennington Town Plan, and accompanying report, are available for examination at the Bennington Town Office at 205 South Street, in Bennington, Vermont.

Barry Horst, Chairperson, Town of Bennington Planning Commission

10/30/15 DRAFT

Proposed Town Plan Language for Solar Electricity Generation and Transmission Siting

The term “solar facility” shall have the following meaning: a solar electricity generation and transmission facility with a 150kW(AC) or greater capacity, including all on-site and off-site improvements necessary for the development and operation of the facility.

The Town of Bennington has developed community standards and siting standards for the development of solar facilities for reference by facility developers and local property owners and for consideration in Section 248 proceedings (30 VSA §248). These standards are set forth below. In addition, The Bennington Planning Commission, in consultation with the Bennington County Regional Commission, will identify and map those areas of Bennington that are most suitable for commercial solar facility development based on facility siting requirements and municipal energy, conservation and development policies and objectives set forth in the Bennington Town Plan, the Bennington Screening of Solar Facilities Ordinance, and the Bennington land Use and Development Regulations.

Pursuant to 30 VSA Sec. 248, prior to the construction of a solar facility, the VT Public Service Board (PSB) must issue a Certificate of Public Good. A Section 248 review addresses environmental, economic, and social impacts associated with a particular project, similar to Act 250. In making its determination, the PSB must give due consideration to the recommendations of municipal planning commissions and its respective plan. Accordingly, it is appropriate that Bennington’s Town Plan address these land uses and provide guidance to town officials, regulators, and facility developers.

The Town of Bennington may participate in the Public Service Board's review of new and expanded generation facilities as necessary to ensure that local energy, resource conservation and development objectives are identified and considered in proposed utility development. This may include joint participation in collaboration with other

affected municipalities and the Bennington County Regional Commission for projects that may have significant regional impact. H.40, passed in 2015, gives the host municipality automatic party status in the PSB permitting process. It is acknowledged that the PSB's prime focus is on administering state public policy and regulating actions that are directed at ensuring that utility services promote the general good of the state.

The Planning Commission, in consultation with the Bennington Select Board, should develop guidelines to direct local participation in Section 248 proceedings for the review of solar facilities located in Bennington or in neighboring communities which may affect the town. The guidelines should reflect levels of participation or formal intervention in relation to the type, location, scale, and magnitude of a proposed project, and its potential benefits and impacts to the community.

Community Standards

The following community standards are to be considered in undertaking municipal solar electricity projects and programs, in updating Bennington's Land Use and Development Regulations to address commercial solar facilities subject to local regulation, and in the review of new or upgraded commercial solar facilities by the Town of Bennington and the Public Service Board (Section 248 review).

Plan Conformance: New commercial solar facilities and proposed system upgrades should be consistent with the Vermont Comprehensive Energy Plan, the Vermont Long-Range Transmission Plan [, and utilities Integrated Resource Planning (IRP)].

Benefits: A demonstrated statewide public need that outweighs adverse impacts to local residents and resources must be documented for municipal support of new solar facilities located within or which may otherwise affect Bennington. Facility development must benefit Town of Bennington and State residents, businesses, and property owners in proportion to the impacts of the proposed development.

Impacts: New solar facilities must be evaluated for consistency with community and regional development objectives and shall avoid undue adverse impacts to

significant cultural, natural and scenic resources identified by the community in the Bennington Town Plan and the Scenic Resources Inventory. When evaluating impacts of a solar facility under the criteria set forth in this Town Plan, the cumulative impact of existing solar facilities, approved pending solar facilities and the proposed solar facility shall be considered. It is explicitly understood that a proposed solar facility that individually may not have an adverse impact may have an adverse impact when the cumulative impacts of the proposed solar facility and existing solar facilities and pending approved solar facilities are considered.

Decommissioning: All facility certificates shall specify conditions for system abandonment and decommissioning, including required sureties (bonds) for facility removal and site restoration to a safe, useful, and environmentally stable condition. All hazardous materials and structures, including foundations, pads and accessory structures, must be removed from the site.

Solar Facility Siting

Bennington supports responsibly sited and developed solar facilities within its boundaries. It recognizes that financial considerations require projects to be located in close proximity to electric power lines capable of transmitting the load proposed to be generated and easy access from major transportation networks for construction. However, the town desires to maintain the open landscape and scenic views important to Bennington's sense of place, tourism economy and rural cultural aesthetic. Not all commercial or community scale solar facilities proposed can meet this standard. Projects must meet the following criteria in order to be supported by this Town Plan:

Siting Requirements: New solar facilities shall be sited in locations that do not adversely impact the community's traditional and planned patterns of growth, of compact (downtown/village) centers surrounded by a rural countryside, including working farm and forest land. Solar facilities shall, therefore, not be sited in locations that adversely impact scenic views, roads or other areas identified in the Scenic Resources Inventory, nor shall solar facilities be sited in locations that adversely impact any of the following scenic attributes identified in the Scenic

Resource Inventory: views across open fields, especially when those fields form an important foreground; prominent ridgelines or hillsides that can be seen from many public vantage points and thus form a natural backdrop for many landscapes; historic buildings and districts and gateways to historic districts; and, scenes that include important contrasting elements such as water.

Preferred Areas: The following areas are specifically identified as preferred areas for solar facilities, as they are most likely to meet the siting requirements:

- Roof-mounted systems;
- Systems located in close proximity to existing large scale, commercial or industrial buildings;
- Proximity to existing hedgerows or other topographical features that naturally screen the entire proposed array;
- Reuse of former brownfields;
- Facilities that are sited in disturbed areas, such as gravel pits, closed landfills, or former quarries;.
- Areas specifically identified as suitable for solar facilities on a map approved by the Select Board.

Prohibited (Exclusion) Areas: In addition to those areas that do not meet the siting requirements set forth above, solar facilities shall be excluded from (prohibited within), and shall not be supported by the town in the following locations:

- Floodways shown on Flood Insurance Rate Maps (FIRMs);
- Fluvial erosion hazard areas as shown in the Town of Bennington Land Use and Development Regulations;
- Class I, II and III wetlands;
- A location that requires fragmentation of Bennington's working landscape, including undeveloped forestland and primary agricultural soils (as defined in Act 250 and as mapped by the U.S. Natural Resource Conservation Service);
- Rare, threatened, or endangered species habitat or communities as mapped or identified through site investigation, and core habitat

- areas, migratory routes and travel corridors;
- Ridgelines: Mount Anthony, Whipstock Hill, Bald Mountain (Green Mountains);
- Steep slopes (>25%)
- Surface waters and riparian buffer areas (except for stream crossings);
- Areas specifically identified as unsuitable for solar facilities on a map approved by the Select Board.
- Topography that causes a facility to be visible against the skyline from common vantage points from public and private vantage points such as roads, homes and neighborhoods;
- A site in proximity to and interfering with a significant viewshed identified in the Scenic Resource Inventory;
- A location where a site cannot be screened from the view of neighbors and thus prohibits them from exercising the peaceful enjoyment of their property;
- A site on which a solar facility project can not comply with Bennington's prescribed siting and screening standards, including the screening requirements set forth in Bennington's Screening of Solar Facilities Ordinance;
- A site that causes adverse impacts to historical or cultural resources, including state or federal designated historic districts, sites and structures, and locally significant cultural resources identified in the municipal plan. Prohibited impacts to historical and cultural resources include:
 - removal or demolition;
 - physical or structural damage, significant visual intrusion, or threat to the use;
 - significant intrusion in a rural historic district or historic landscape with a high degree of integrity;
 - significant visual intrusion into a hillside that serves as a backdrop to a historic site or structure;
 - creating a focal point that would disrupt or distract from elements of a historic landscape;
 - a significant intrusion in a rural historic district or historic landscape that has a high degree of integrity;
 - impairing a vista or viewshed from a historic resource that is a significant component of its historic character and history of use;
 - visually overwhelming a historic setting, or by being dramatically out of scale;
 - isolating a historic resource from its historic setting, or introduce incongruous or incompatible uses, or new visual, audible or atmospheric elements.

Mass and Scale

Except for solar facilities located in preferred areas, solar facilities larger than 10 acres, individually or cumulatively, cannot be adequately screened or mitigated to blend into the municipality's landscape and are, therefore, explicitly prohibited.

Chapter 10 - Consistency with State Planning Goals and Relationship to Town and Regional Plans

BOLD AND UNDERLINED TEXT ADDED TO ADDRESS PROPOSED AMENDMENT

10.1 Statutory Requirements

The Vermont Municipal and Regional Planning and Development Act encourages towns to develop plans that are compatible with the plans of other municipalities in the region and with the regional plan, and which are consistent with the goals that are contained in 24 V.S.A. Section 4302. The following section (9.2) will detail this plan's consistency with those goals and Section 9.3 will include a brief discussion of the Bennington Town Plan in the context of the Bennington County Region and its other municipalities. The statute also requires that the plan include a recommended program for implementing the objectives of the plan. That requirement is met through the specific policies and recommendations that accompany each individual element of the plan.

10.2 Consistency with State Goals

The Planning and Development Act contains one set of goals that deals with the planning process—24 V.S.A. 4302 (b):

- To establish a coordinated, comprehensive planning process and policy framework;
- To encourage citizen participation;
- To consider the use of resources and the consequences of growth and development;
- To work with other municipalities to develop and implement plans.

Bennington has a long established planning program, implemented through several municipal boards and commissions, the Town Plan and implementing regulations, a professional planning and development staff, and active participation in the Bennington County Regional Commission (BCRC). Citizen participation is actively encouraged at all stages of the planning process; numerous public meetings and forums are held every year to discuss a variety of planning issues. A guiding principle of the town's planning effort is to manage growth so that it is directed to achieve the greatest benefit to residents while avoiding wasteful consumption of land and other resources. Through its active role in the BCRC and various inter-municipal and regional projects and studies, the town works on a regular basis with other towns in the region and the villages of Old Bennington and North Bennington.

Fourteen specific goals (24 V.S.A. 4302(c)) should be reflected in the Town Plan. Those goals are presented below with a discussion of how each is addressed in the Town Plan.

1. **To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.**

The Town Plan establishes a very clear Urban Growth Area. New growth, and the

infrastructure to support that growth, is focused specifically in this area. The land use plan provides for high density development and a variety of uses in the Urban Growth Area while maintaining low densities and preserving open spaces in the outlying rural areas. Commercial development is strongly encouraged and supported in the town's center while strip development along rural highways and residential or commercial sprawl into the countryside is not allowed. Opportunities for infill development and redevelopment of underutilized properties within the Urban Growth Area are identified and encouraged. Land conservation measures for rural areas are described and promoted. All of these policies are supported and enhanced through the recent establishment of Bennington's state designated Growth Center. **The proposed amendment specifically addresses solar facilities and establishes criteria for ensuring that such facilities reinforce the traditional settlement pattern.**

- 2. To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.**

The Town Plan contains an Economic Development section that identifies the various sectors that make up the local economy. Key market sectors and infrastructure and technology needs are discussed, and recommendations put forward to support high quality economic growth that will provide good employment opportunities for residents. Specific attention is given to the need for strong local educational services to support the workforce development needs of the town's businesses. A new section on sustainable local economies was added to the plan in recognition of changing conditions. Economic development activities are guided by the *Bennington Strategic Economic Development Plan*, which was duly adopted by the Bennington Select Board in 2013. The Bennington Economic Development Partners, a group of businesses and organizations involved in support of economic development in the region, assists the town with the implementation of development activities.

- 3. To broaden access to educational and vocational training opportunities sufficient to ensure the realization of the abilities of all Vermonters.**

All of the local public and private schools, including the vocational Career Development Center and the six colleges located in the town, are identified in the Town Plan. The need for coordination between municipal, educational and economic development professionals is discussed in detail, as is the need to maintain high quality physical facilities and technology at the schools.

- 4. To provide for safe, convenient, economic, and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.**

The Town Plan's transportation section includes and extensive discussion of the existing and planned transportation system for the community. Focusing development within the Urban Growth Area will promote economy and efficiency in the transportation system. Highway designs are to encourage safe and efficient movement of people and goods through use of creative approaches such as traffic calming and access management. Strong support is given to

improved rail transportation and expanded intercity bus and local public transit opportunities. Policies call for inclusion of pedestrian and bicycle facilities in all new highway projects and commercial and residential developments. Specific plans for new and expanded pathways are included, as are recommendations for energy efficient vehicles and transportation systems.

5. To identify, protect, and preserve important natural and historic features of the Vermont landscape.

The chapter on Natural, Scenic, and Historic Resources includes an inventory of those resources and references other studies and initiatives that have been undertaken to protect these unique features of Bennington's landscape. Regulation (including historic preservation districts and guidelines), acquisition, and funding opportunities for resource protection are identified and discussed. Special programs and projects, such as the Molly Stark Trail Scenic Byway and cooperative land conservation efforts on Mount Anthony, are described and supported. It is made clear that development activities must respect the need to preserve these resources. **The proposed amendment articulates specific criteria for the siting of solar electricity generation facilities that will protect and preserve important natural and historic features of the Vermont landscape.**

6. To maintain and improve the quality of air, water, wildlife, and land resources.

The Town Plan contains sections dealing specifically with the protection of air quality, surface and subsurface water resources, fish and wildlife habitat, and land conservation. Threats to local and regional air quality are identified and protective measures discussed. Rivers, streams, wetlands, lakes, and groundwater resources are described in detail with recommendations for various regulatory and non-regulatory approaches to protection. A map and discussion of the town's fluvial erosion hazard area are included. Critical wildlife habitat areas are described and mapped and protection from incompatible development is required. The town's land use plan supports land conservation efforts by restricting high density development to the Urban Growth Area and prohibiting development in the mountainous areas of town. Individual rural subdivisions also must protect open space by using planned unit development techniques.

7. To encourage the efficient use of energy and the development of renewable energy resources.

The Energy element of the Town Plan has been considerably expanded and contains numerous recommendations to encourage energy conservation and the utilization of renewable energy resources. An efficient land use pattern and transportation network, greater reliance on energy efficient vehicles and appliances, and local development of wind, hydroelectric, and solar based energy sources are recommended approaches. A Municipality Energy Plan was recently completed and provides information on energy usage in the community and discusses opportunities and strategies for energy conservation and the development of local renewable energy resources. **The proposed amendment articulates specific criteria for the siting of solar electricity generation facilities so that developers have clear guidance as to appropriate locations, thus allowing for an efficient and predictable permitting process.**

8. To maintain and enhance recreational opportunities for Vermont residents and visitors.

Recreational resources throughout the town are identified and the importance of maintaining those lands and facilities emphasized. Activities that are supported by public access to rural open spaces are discussed as are developed recreational facilities such as parks and playgrounds. The importance of the Green Mountain National Forest and related resource opportunities in Bennington and nearby towns is noted. The establishment of a Green Mountain National Park, as a way to promote interest in the area's recreational opportunities, is discussed. Public hiking trails and other noncommercial recreational resources are included on Town Plan maps and preservation strategies presented. The Bennington Parks and Open Space Plan is referenced and provides additional inventory information and recommendations for improvements.

9. To encourage and strengthen agricultural and forest industries.

The land use plan permits only low-density development in rural agricultural areas and prohibits development on forested mountainsides. A specific objective of the land use plan is preservation of the working agricultural and forest landscape of the town. Extension of municipal water and sewer to outlying rural areas will not take place because of the potential for sprawl that would adversely affect the viability of agriculture and forestry. Several tax abatement, economic, and conservation programs designed to support agriculture and forestry are supported. The proposed amendment specifically protects agricultural land.

10. To provide for the wise and efficient use of Vermont's natural resources and to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetic qualities of the area.

Natural resource based industries are encouraged and policies are established which protect the future availability of important earth resources. At the same time, requirements for environmental protection during extraction and processing of those resources and restoration of disturbed sites are set forth.

11. To ensure the availability of safe and affordable housing for all Vermonters.

The Town Plan recognizes the need to provide a variety of quality housing options for all segments of the local populations. The land use plan strongly endorses the development of additional quality housing units in and around the town center, in the vicinity of public services, employers, and commercial businesses. Redevelopment of existing buildings for housing and infill housing development are both supported by the plan. Locations for multi-family housing and manufactured housing are provided for and accessory dwelling units are permitted as required by state law. The plan also identifies various housing organizations and programs available to support the development and provision of housing for low and moderate income residents.

12. To plan for, finance, and provide an efficient system of public facilities and services to meet future needs.

Bennington contains extensive public facilities and services, all of which are described in the Town Plan. The condition of the facilities are described and needed improvements noted. The capacity of the facilities in relation to existing demand and anticipated future growth is discussed and ways of improving service provision are presented. The plan clearly states that public facilities should be concentrated within the Urban Growth Area to facilitate convenient and efficient access.

13. To ensure the availability of safe and affordable child care and to integrate child care issues into the planning process, including child care financing, infrastructure, business assistance for child care providers, and child care workforce development.

The need for quality child care—as both a necessity for residents and for economic development—is explicitly identified in the Plan. A variety of child care facilities are permitted in many land use districts and the need for effective workforce development is discussed. The Town Plan identifies service agencies and organizations that exist to provide financial and technical assistance to child care providers.

14. To encourage flood resilient communities.

The flood resiliency chapter discusses the importance of becoming flood resilient. Some of the topics covered in this chapter are: the Emergency Relief and Assistance Fund, Fluvial Erosion Hazard Zones, Special Flood Hazard Areas, River Corridors, Flood Hazard Zones, and the new flood hazard zone maps. Structures located in the Special Flood Hazard Area and Fluvial Erosion Hazard Zone are listed, and the importance of helping these structures become flood resilient is addressed. The plan also acknowledges that Bennington has flood hazard area regulations that are included as part of their zoning bylaws, and that the regulations allow Bennington residents to participate in the National Flood Insurance Program and property owners to have access to flood insurance.

10.3 Relationship to Town and Regional Plans

The town has been a member of the Bennington County Regional Commissions since its creation and has developed a working relationship with the BCRC that has assured that local and regional planning efforts are compatible. The Bennington County Regional Plan recognizes Bennington as a regional center for commerce, industry, institutional uses, and public services. It includes an “Urban Center” land use classification that is consistent in geographical extent and purpose with the town’s Urban Growth Area. The Regional Plan also encourages public and private investment to support growth and economic development activity in the town’s center.

The Regional Plan emphasizes the need to protect natural, scenic, and historic resources in very much the same way as the Town Plan. Bennington’s downtown and many regionally important natural resources located within the town are identified in the Regional Plan and strategies to ensure their protection are consistent with those proposed in the Town Plan. The outlying parts of Bennington lie in the Regional Plan’s Rural and Forest land use districts, where low density residential uses are allowed and agriculture, forestry, and recreation are emphasized

in a manner comparable to the town's objectives for those areas.

Infrastructure improvements that are advanced in the Town Plan are supported by the Regional Plan as well. Economic development planning efforts at the regional level have involved community development officials in Bennington and focus specifically on the types of industrial growth, technology development, and workforce issues that the town has identified as critical to success.

Bennington has a particularly close historic, geographic, and economic relationship to the villages of Old Bennington and North Bennington. The residents of the villages also are served by many Bennington municipal services. Both villages contain important historic districts that contribute to the overall character of the community and efforts to preserve and promote those resources are common to all three municipalities. North Bennington is a significant village center in its own right and the town will work with the village to improve transportation connections, by pathway, railway, and highway, between the town and village centers.

Other nearby towns in the region include Pownal, Stamford, Woodford, Glastenbury, and Shaftsbury, as well as White Creek and Hoosick in New York State. The Bennington County towns have developed land use and development plans that are structured around the general guidelines of the Regional Plan and consequently are also consistent with the Bennington Town Plan. Those towns are much more rural than Bennington and lack the infrastructure needed for more intensive growth. Although some growth will, and should, occur in those communities, it is recognized that Bennington must remain the regional service center for the southern part of the County. Adjacent land use districts in those towns provide principally for low-density and natural resource based land uses which are compatible with the rural land use districts in Bennington.

The area of New York State immediately to the west of Bennington is rural and agricultural in character and should remain that way. Residents of the area rely on Bennington as an employment and service center. Bennington supports the Town of Hoosick's efforts to curtail the proliferation of billboards and commercial sprawl along NY Route 7, an important approach to Vermont and a critical arterial highway connection to the Albany, NY area and the interstate highway system.