



Town of Middletown Planning Department

350 East Main Rd., Middletown RI 02842 (401) 849-4027

MEMORANDUM

To: Paul A. Croce, Chairman
Planning Board Members

From: Ron Wolanski, Town Planner

Date: April 1, 2021

Re: Review and provide recommendation to the Town Council on proposed amendments to Section 400 - Definitions, Section 602 - Schedule Of District Regulations, Section 703 - Accessory Uses And Structures and Section 725 of the Middletown Zoning Ordinance regarding ground-mounted solar photovoltaic installation, including design requirements for all arrays and specific provisions for arrays mounted on carports and canopies.

During the March meeting the Board requested revisions to the draft ordinance language regarding the “abandonment” section, which is now entitled “Decommissioning and Removal”. The revisions prepared by the Town Solicitor are included in the attached revised draft.

In summary, the proposal would amend Section 725 of the zoning ordinance to include provisions specific to installations using carports and canopies; amend section 400 to revise the definition of ground-mounted solar photovoltaic installation; amend section 602 to allow solar installations by special use permit in some districts; and amend section 703 to exempt carports and canopies from certain accessory use dimensional requirements.

1. Defines solar installations as small or large scale with a 1,000 square foot threshold.
2. Requires only large scale solar (greater than 1,000 sq.ft.) to go through Development Plan Review
3. Allows small scale solar in residential zones only as an accessory use
4. Provides additional dimensional regulations
5. Adds landscaping, site design, and soil preservation standards
6. Requires submission of utility company’s preliminary approvals with the Development Plan Review application

Once the Board is satisfied with the final draft, it should be forwarded to the Town Council for consideration. The Town Council must then hold a formal public hearing before amendments are adopted.

In support of its recommendation to the Town Council the Board must make the following findings in accordance with the requirements of Section 45-24-52 of the Rhode Island General Laws:

(1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan , including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and

(2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

Please contact me with any questions.

cc. Town Solicitor

**ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND**

**AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN**

**TITLE XV: LAND USAGE
Chapter 152, Zoning Code**

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title XV, Chapter 152, Entitled “Zoning Code” is amended by amending Section 400, entitled “Definitions”, Section 602, entitled “Schedule of District Regulations - Uses and Districts”, and Section 703, entitled “Accessory Uses and Structures”, Section 725, entitled “Ground-Mounted Solar Photovoltaic Installation” as follows (language to be deleted is stricken out within brackets; language to be added is underlined):

§ 400 - Definitions

GROUND-MOUNTED SOLAR [~~PHOTOVOLTAIC INSTALLATION~~]-ENERGY SYSTEM. A solar [~~photovoltaic~~ energy] system, consisting of photovoltaic panels, support structures, and other equipment which is structurally mounted on the ground and is not roof-mounted, and is used to convert solar energy to electricity, including but not limited to supplying electricity to the local grid or directly to a commercial or residential consumer(s). A solar carport or canopy shall be considered a ground-mounted solar energy system.

SOLAR CARPORT OR CANOPY. A type of ground-mounted solar energy system in which a carport or canopy structure is constructed over a parking lot, driveway, walkway, or agricultural activity supporting a solar photovoltaic panel or panels.

LARGE SOLAR ENERGY SYSTEMS. A ground mounted solar energy system, greater than 1,000 square feet as calculated per § 725.

SMALL SOLAR ENERGY SYSTEMS. A ground mounted solar energy system, less than or equal to 1,000 square feet as calculated per § 725.

§ 602 SCHEDULE OF DISTRICT REGULATIONS - USES AND DISTRICTS.

ZONING DISTRICT PERMITTED USES															
	Y = Permitted S = Special Use N = Not Permitted														
PRINCIPAL USE	ZONING DISTRICT														
	R60	R40	R30	R20	R10	R	G	L	O	LI ₁	LI ₂	O _P	O _S	P	MT

TRANSPORTATION, COMMUNICATION AND UTILITIES															
Ground-mounted solar photovoltaic installation	<u>SN</u>	<u>SN</u>	<u>SN</u>	<u>SN</u>	<u>SN</u>	S	S	S	S	S	S	S	N	S	S
Large Solar Energy Systems															
Small Solar Energy Systems*	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>S</u>	<u>S</u>

*allowed only as an accessory to the principal use in residential districts per § 725

§ 703 ACCESSORY USES AND STRUCTURES.

(A) Except as otherwise provided in divisions (F) and (G), an accessory use which is clearly incidental and secondary to the principal permitted use of the premises or structure shall be allowed; provided that such accessory use shall be located on the same lot to which it applies.

(B) No accessory buildings or structures shall be located nearer than ten feet to a principal building unless such accessory buildings or structure are structurally attached to the principal building [except for solar carports or canopies as described in § 725.](#)

(C) Regardless of the provisions of Table of Zoning District Dimensional Regulations concerning Accessory Buildings - Minimum Distance in Feet to Side Lot Lines and Rear Lot Line, [§ 603](#), any accessory structure, having 150 square feet or less floor area with a maximum height of 15 feet shall be permitted to be placed no closer than five feet to any lot line in the required rear yard. Provided, however, that no accessory structure, pen or enclosure used for keeping animals shall be permitted closer to a property line than the distance permitted for accessory buildings in the Table.

(D) No accessory building or structure, except signs as allowed by [Article 12](#), ~~and~~ satellite dish antennas and communication towers as allowed by [Article 25](#), [and solar carport or canopy as allowed in § 725](#) shall be located in any required front yard.

(E) Vending machines, newsstands, soft drink machines, etc., shall be considered to be accessory structures and shall not be placed within the right-of-way of streets, attached to a utility pole, or located within any required off-street parking and loading facility. Such structures are permitted only if attached to or abutting a building, upon a sidewalk or exterior mall adjacent to a building, or within pedestrian areas associated with a building.

(F) Farm-promotion accessory uses are allowed by obtaining a special use permit from the Board of Review. Such uses are subject to applicable requirements and conditions of farm-promotion accessory uses, as well as to any conditions imposed by the Board under conditions on variances and special use permits.

(G) A tent erected and maintained for not more than 30 days, or for up to nine months under successive licenses issued by the building official under the tent chapter (Town Code, Chapter 101), shall be considered an accessory structure and shall be allowed as a matter of right in all districts. All other tents exceeding 120 square feet in area shall require a special-use permit from the Zoning Board of Review, which is expressly authorized, after considering the requirements for special-use permits under [§ 902](#), to allow the tent to be located on the lot containing the principal use or on an undeveloped lot.

§ 725 GROUND-MOUNTED SOLAR [~~PHOTOVOLTAIC INSTALLATION~~] ENERGY SYSTEM

Delete the entirety of Section 725 and replace with the following:

725.1 PURPOSE.

The purpose of this section is to regulate ground mounted solar energy systems and provide standards for appropriate placement, screening, design, and removal of such systems. Solar energy is an important element in reducing the use of fossil fuels. As such, development of properly sited solar energy systems is encouraged in commercial areas, on previously developed sites and brownfields, rather than in residential areas, on farmland or wooded areas, and areas with prime agricultural soils.

725.2 GROUND MOUNTED SOLAR DIMENSIONAL REGULATIONS

A. DIMENSIONAL TABLE			
	<u>MAXIMUM HEIGHT</u>	<u>MINIMUM SETBACKS FROM ALL PROPERTY LINES</u>	<u>MAXIMUM LOT COVERAGE</u>
<u>Ground-mounted solar energy system, except solar carport or canopy</u>	<u>12 ft</u>	<u>As per setback requirements in §603 for a principal building in the subject district</u>	<u>50% of developable land</u>
<u>Solar carport or canopy</u>	<u>As per accessory building height in §603</u>	<u>As per setback requirements in §603 for a principal building in the subject district</u>	<u>50% of developable land</u>
<u>RESIDENTIAL Districts Ground-mounted solar energy system, except solar carport or canopy</u>	<u>12ft</u>	<u>As per setback requirements in §603 or §604 for an accessory building in the subject district</u>	<u>25% of developable land</u>
<u>RESIDENTIAL Districts Solar carport or canopy as an accessory use only</u>	<u>As per accessory building height in §603 or §604</u>	<u>As per setback requirements in §603 or §604 for an accessory building in the subject district</u>	<u>10% of developable land</u>

B. Height is measured from pre-development lot grade at the location of the panel.

C. Lot Coverage: A ground-mounted solar energy system shall not be subject to the maximum percentage of lot to be occupied by buildings as applied in § 603 or §604.

1. Lot coverage area shall include land located within the fenced area of the installation as well as land used for access roads and utilities exclusively serving the installation.
2. Solar carports/canopies area calculation shall be based on total roof area of the carports/canopies.

3. Any subsequent subdivision of the subject parcel shall ensure continued compliance with lot coverage requirements.

725.3 STANDARDS

A ground-mounted solar energy system in any zoning district shall comply with the following:

A. IN RESIDENTIAL DISTRICTS

1. Solar carports and canopies are allowed in residential zones only as an accessory use, which is clearly incidental and secondary to the principal permitted use of the premises or structure.
2. Except for carport and canopy installations, no ground-mounted solar energy system shall be installed in the front yard (area between the principal structure and the street), in any residential district.

B. DEVELOPMENT PLAN REVIEW

1. A large solar energy system shall be subject to Development Plan Review as described in § 305.
2. In addition to the submission requirements for Development Plan Review § 305, large solar energy systems must submit documentation from the appropriate public utility indicating the completion of a feasibility study, or in the case that an impact study is required by the public utility, a completed impact study must be submitted.

C. LANDSCAPING AND VEGETATION

1. The site design shall incorporate landscaping and design elements to visually screen the installation from view from public roads and adjoining properties to the greatest practical extent.
2. The installation shall be surrounded by visual screening, consisting of fencing, dense vegetation, or a combination of both, that is a minimum of six feet in height at the time of installation.
3. The required vegetated buffer/screening shall be maintained for the life of the solar energy system. The property owner and/or facility owner shall be required to replant any section of the buffer/screening found not to meet the requirements of this section as determined by the zoning official or tree warden in consultation with the town planner.
4. Vegetation planted under solar panels must include native wildflower or grasses seed mix.

D. SITE DESIGN

1. Electrical lines and connections shall be installed underground.
2. A ground-mounted solar energy system shall be designed to prevent unauthorized access to panels and equipment, such as by use of protective fencing, locked equipment shelters, and other means as appropriate.
3. Where the proposed development parcel includes or is directly adjacent to wetlands, any fencing must provide a minimum of 6-inches of ground clearance to allow for the appropriate movement of wildlife.
4. Adequate emergency vehicle access to and throughout the installation shall be provided, subject to approval of the Middletown Fire Department.
5. Any outdoor lighting on site must be in compliance with Article 27B (*pending adoption*)

E. SOIL PRESERVATION

1. Except for carport or canopy installations, no removal of topsoil or unnecessary disturbance of the ground or grading is permitted as part of the installation or maintenance. Any topsoil that must be moved shall be stored and stabilized on-site for future use.
2. Except for carport or canopy installations, siting of the facility and individual panels shall maintain the existing contours of the land, and only pile driven or ballast block footing are to be used, so as to minimize the disturbance of soils during installation.

725.4 DECOMMISSIONING AND REMOVAL

All Ground-Mounted Solar Energy Systems shall be decommissioned and removed after they cease to generate electricity, as follows:

- A. As part of the application package for a special use permit a decommissioning plan that contains the following shall be submitted:
 1. The name, address, telephone number, and e-mail address of the person(s) or entity(ies) responsible for implementing the decommissioning plan;
 2. A statement of conditions that require the decommissioning plan to be implemented;
 3. As part of decommissioning, a removal plan that identifies all structures, components, and non-utility owned equipment that shall be removed;
 4. As part of decommissioning, a plan for recycling or otherwise reusing all materials to the extent reasonably practicable;
 5. As part of decommissioning, a restoration plan to return the property to its condition prior to the installation of the system or to some other condition reasonably appropriate for the designated land use after the system is removed;
and
 6. A timeline to complete decommissioning.
- B. Decommissioning shall begin no later than 6 months after a Ground-Mounted Solar Energy System has ceased to generate electricity or thermal energy.
- C. Within 6 months of the beginning of decommissioning, the Ground-Mounted Solar Energy System and all structures associated with it shall be removed, and the property shall be returned to its condition prior to the installation of the Ground-Mounted Solar Energy System or to some other condition reasonably appropriate for the designated land use.
- D. If the property owner fails to remove the installation in accordance with the requirements of this section, the Town shall have the authority to enter the property and physically remove the installation and restore the property. In that case, the owner of the property shall be responsible for all costs incurred by the town, and the obligation shall be recorded in the Land Evidence Records as a lien against the property.

SECOND: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.