

MEMORANDUM

To: The Honorable Stephen P. McAllister, Council President
The Honorable Warwick City Council Members
Lynn D’Abrosca, City Clerk

From: Bruce Keiser
Planning Director

Date: June 14, 2021

Subject: Solar and Energy Storage Facility Siting Ordinance
Zoning Ordinance Amendment

Amended Sections: Section 200. – Definitions
Section 300. – Establishment and Classification of Districts
Table 1. Use Regulations
Section 305. Administrative Procedures for Overlay Districts
Section 314. – Overlay district regulations – Solar Energy Systems (SEs) and Energy Storage Facilities (ESFs)
Section 601.1 Accessory building and uses, residential
Section 601.10 Accessory Solar Energy Systems (SEs) and Energy Storage Facilities (ESFs)

Applicant: City of Warwick

Location: Citywide

Zoning Districts: OS, A-40, A-15, A-10, A-7, O, WB, GB, LI, GI, Intermodal, Gateway, Village District

Procedural Summary

The City of Warwick desires to amend various sections of the City’s Zoning Ordinance as outlined herein to create a standard review process for the siting of Solar Energy Systems (SEs) and Energy Storage Facilities (ESFs) throughout the City. In accordance with Section 1007 of the City’s Zoning Ordinance and R.I.G.L. §45-24-51, the Planning Board shall notify and seek the advice of the Planning Department and report to the City Council within 45 days after receipt of the proposal, giving its findings and recommendations. Where a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map is made by the city or town planning board or commission, the requirements for study by the board may be waived; provided that the proposal by the planning board includes its findings and recommendations pursuant to §45-24-52. The Planning Board is hereby providing their recommendation to the City Council along with relevant information related to this proposal. Pursuant to RIGL §45-24-52 the city or town council shall hold a public hearing within sixty-five (65) days of receipt of a proposal, giving proper notice as prescribed in §45-24-53.

Summary of Proposed Amendment

In general, the proposed zoning ordinance amendment will:

1. Provide specific definitions related to Solar Energy Systems (SESs) and Energy Storage Facilities (ESFs).
2. Amend Table 1. Use Regulations to define where SESs and ESFs are allowed, prohibited, or allowed by overlay in each zoning district.
3. Revise the general procedure and submittal requirements for all overlay districts.
4. Establish overlay district regulations for SESs and ESFs.
5. Outline review procedures for various types of SESs and ESFs.
6. Clearly outline performance standards for principal use SES and ESF facilities.
7. Incentivize development of SESs and ESFs on industrial-zoned land, contaminated sites, and for solar canopies (i.e. carports).
8. Establish clear performance standards for accessory SESs and ESFs.

Background and Context

Currently, the City of Warwick Zoning Ordinance does not include general definitions, specific use designations, performance standards, or approval processes relating to the siting of Solar Energy Systems or Energy Storage Facilities either as a principal or accessory use. To date, proposals for principal use solar have been managed within the framework of the existing zoning ordinance, which defines all principal use solar systems as an *Electric Power Plant* under use Code 608. “Energy storage facility” is currently undefined and, therefore, requires the Building Official to determine the appropriate use code for classification. Accessory SESs and ESFs are currently managed by the Building Official under provisions outlined in *Section 601. – Accessory Buildings and Uses*. The lack of clarity in the current zoning ordinance relating to principal and accessory SESs and ESFs has left much to the interpretation of the Building Official and often creates a vague and cumbersome process for any type of solar or energy storage development in the City. The proposed ordinance seeks to clarify process and procedures relating to the installation of SESs and ESFs in all zoning districts.

Planning staff presented draft updates to the Planning Board on February 10, 2021 and April 14, 2021. A recommendation was made by the Planning Board at its May 12, 2021 meeting in accordance with procedures set forth in Section 1007 of the City’s Zoning Ordinance and RIGL §45-24-51. A summary of findings and recommendations from the Planning Board are outlined herein.

Planning Board Findings and Recommendations

After completion of the May 12, 2021 Public Hearing, for which notice was served and a record was kept, the Warwick Planning Board taking into consideration its knowledge and expertise, and after considering all of the representations and presentations made at the Public Meeting, found the Solar and Energy Storage Facility Siting Ordinance, as written, to be generally consistent with the *City of Warwick, Comprehensive Plan 2033*, including the goals and policies statement, the implementation program, and other applicable elements, to include:

- a. *Chapter 11, Section E, Goal 1, Item D of the Comprehensive Plan, Sustainability and Resilience* element, which recommends that the City “provide regulations for renewable energy installations on private property in zoning and other ordinances, as appropriate.” The proposed Solar Energy Systems ordinance and Energy Storage Facilities ordinance are directly aligned with this goal.
- b. *Chapter 1, Section 1.3 - Our Vision for 2033* and *Chapter 8, Section 8.2 - Economic Development Goals and Policies*, which state that the City is committed to a diversity of land uses that promote a strong, stable tax base, including preserving industrially-zoned land for non-retail uses. The proposed ordinance allows for the orderly consideration of SESs and ESFs to expand the diversity of development and land uses in the City. In addition, the development of SESs and ESFs are promoted on industrially-zoned properties and contaminated land. The short-term use of industrially-zoned properties for SESs and ESFs is a viable strategy for the City to preserve industrially-zoned parcels for future development as needs evolve over time. In addition, the development of SESs and ESFs on contaminated land presents an opportunity to expand the City’s tax base by utilizing land that may unusable for other types of development.

The Planning Board also found the proposed zoning amendment to be generally consistent with **RIGL Section 45-23-30** *General Purposes of Land Development and Subdivision Review Ordinances, Regulations and Rules*, Section 103 of the City’s Zoning Ordinance, to include:

- a. Promoting the public health, safety, and general welfare of the City by providing for the orderly consideration and development of Solar Energy Systems and Energy Storage Facilities (Section 103.1/ RIGL §45-24-30(1)).
- b. Providing for a range of uses and intensities of use appropriate to the character of the City and reflecting current and expected future needs (Section 103.2/ RIGL §45-24-30(2)).
- c. Providing for orderly growth and development as outlined in Section 103.3 of the City’s Zoning Ordinance and RIGL §45-24-30(3)).
- d. Providing for the control, protection, and/or abatement of noise pollution, and soil erosion and sedimentation (Section 103.4/ RIGL §45-24-30(4)).
- e. Promoting a high level of quality in design in the development of private and public facilities (Section 103.10/ RIGL §45-24-30(11)).
- f. Promoting implementation of the Warwick comprehensive community plan, as amended (Section 103.11/ RIGL §45-24-30(12)).

- g. Providing for efficient review of development proposals, to clarify and expedite the zoning approval process (Section 103.13/ RIGL §45-24-30(14)).

The Planning Board also found the proposed zoning amendment to be generally consistent with the findings presented by the Planning Department staff, as follows:

1. That the proposed ordinance has been reviewed by a land use attorney retained for the project and is consistent with RIGL §45-24 - *Zoning Ordinances*.
2. That the definitions contained in the ordinance amendment serve a beneficial use in clarifying uses and terms related to SESs and ESFs and do not conflict with the terms outlined in RIGL §45-24-31. *Definitions*.
3. That the ordinance promotes the development of SESs and ESFs on industrially-zoned and contaminated properties.
4. That the ordinance promotes the development of solar canopies (i.e. carports).
5. That the ordinance promotes the development of rooftop and small ground mount facilities in residential and non-residential areas with applicable performance standards.
6. That the ordinance provides for the orderly review of principal use SESs and ESFs, and provides comprehensive performance standards for development, operation, and decommissioning of SESs and ESFs that protect the public interest.
7. That, while the ordinance allows for consideration of principal use solar and energy storage facilities on properties zoned residential (A), the review and approval process is much more intensive than proposals on non-residential and contaminated sites.
8. That consideration of principal use Solar and Energy Storage Facilities on properties zoned residential (A) involves an extensive overlay process, including review by the Planning Board and City Council; adherence to extensive performance standards for development, operation, and decommissioning of SESs and ESFs; and a proposal for a direct benefit as a prerequisite for consideration of the development.
9. That the proposed amendment, as presented, is generally consistent with the City's Comprehensive Community Plan as outlined herein.
10. That the amendment, if enacted, would allow for the orderly consideration, growth, and/or expansion of alternative and renewable energy production and storage.
11. That the proposed ordinance amendment relating to accessory uses is consistent with current permitting policies and practices of the City's Building Official.

Based on the foregoing findings of fact, on a motion by Ms. Bataille, seconded by Mr. Penta, the Warwick Planning Board voted Seven (7) in favor, zero (0) opposed, to forward a favorable recommendation for passage of the Solar and Energy Siting Ordinance, as written, to the City Council.

Board and Commission Review

The Planning Department issued the proposed Solar and Energy Storage Facility Siting Ordinance to relevant boards and commissions for review. The following is a summary of feedback received:

Board/ Commission	Recommendation/ Feedback	Comments
Wildlife and Conservation Commission	Favorable Recommendation as Written	Presentation provided by the Planning Department at the May 20, 2021 regular meeting. The Commission voted to make a favorable recommendation.
Cemetery Commission	No Objection	Memo received from the board administrator stating that there was no objection to the ordinance as presented.
Harbor Management	No Objection	Memo received from the board administrator stating that there was no objection to the ordinance as presented.
Historic District Commission	Amendments Requested*	Memo received from the Board Chair requesting a minor amendment which will be presented to Council at the Hearing.
Land Trust Commission	Amendments Requested/ Assignment to Subcommittee*	Presentation provided by the Planning Department at the May 26, 2021 regular meeting. The Commission voted to assign a subcommittee to propose amendments.

* Recommendations will be made by Planning Staff for adoption of individual amendments at the public hearing.