

**Borough of New Providence  
Ordinance 2011-12**

**AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE AMENDING AND  
SUPPLEMENTING THE ZONING PROVISIONS OF THE BOROUGH CODE TO  
ESTABLISH A SOLAR ENERGY SYSTEMS ORDINANCE**

BE IT ORDAINED by the governing body of the Borough of New Providence, Union County, New Jersey, that the Zoning Ordinance of the of the Borough of New Providence is hereby amended to establish a Solar Energy Systems Ordinance to promote alternative energy systems implementation, clean domestic energy production and a clean, sustainable environment.

WHEREAS, the Borough has found that encouraging solar energy production promotes the public health, safety and general welfare by providing clean energy that can be delivered to the end user efficiently, reducing reliance on fossil fuels and by providing the opportunity for the generation of clean energy at a reduced cost to consumers;

NOW, WHEREFORE, IT IS HEREBY ORDAINED by the Governing Body of the Borough of New Providence as follows:

§ 310-6, entitled "Definitions," is hereby amended to add the following new terms:

Definitions

Solar Energy System: means an energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy through the use of a solar panel or solar panel array and associated equipment.

Solar Panel: means a photovoltaic panel, or solar shingle or hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Panel Array: means a collection of multiple solar panels mounted or arranged together, providing energy to the same primary user, as part of a solar energy system.

The Borough Ordinance is hereby amended to contain the standards for Solar Energy Systems set forth below.

Purpose; requirements; applicability

The primary purpose of the solar energy system will be to provide power for the principal use of the property whereon the said system is to be located and shall not be for the generation of power for commercial purposes for resale, other than as permitted by net metering laws. Solar Energy systems shall be permitted as a conditional use in all the zones in the Borough of New Providence in accordance with the following standards:

(A) Residential Zones

- (1) Ground-mounted solar energy can be located in the residential zones in accordance with the following:
  - (a) Shall not be located within any front yard, easements or utility line or, along the front wall of the principal building.
  - (b) Such systems shall maintain the side and rear yard setbacks as stipulated within the respective zoning district.
  - (c) Ground-mounted solar energy systems shall not exceed 400 square feet.
  - (d) Such systems shall not exceed ten (10) feet in height.
  - (e) Adequate screening in form of four seasons planting shall be provided along the property line.
  - (f) Ground mounted solar energy systems shall not be categorized as accessory buildings.
  - (g) Systems shall be located and installed so that the sun glare is directed from an adjoining property line or public right of way.
  - (h) System shall be designed by using materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
- (2) Roof-mounted solar energy systems, shall be permitted as on a conforming single-family, two-family residential building provided the systems are in accordance with the following:
  - (a) In no event shall the placement of the solar panels result in the total height, including the building and panels, exceeding what is permitted in the zoning district.
  - (b) In no instance shall any part of the system extend beyond the edge of the roof.
  - (c) If solar systems are attached to accessory buildings, then such systems shall not be located in the front yard and shall not be less than six (6) feet from any side or rear property line.
  - (d) Rooftop installations must not interfere with any operation of plumbing fixtures protruding from the rooftop level as required by the New Jersey Plumbing Codes.
- (3) Utility notifications and interconnection. Solar systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C 14:4-9.

(B) Non-residential zones

- (1) Roof mounted solar energy system in non-residential zones shall be in accordance with the following
  - (a) In no instance shall any part of the system extend beyond the peak of the roof, extend beyond the maximum height of the roof line or exceed

the maximum height permitted for principal building in the respective zone.

- (b) The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
- (c) Rooftop installations must not interfere with any operation of plumbing fixtures protruding from the rooftop level as required by the New Jersey Plumbing Codes.
- (d) All applicable building codes must be followed.
- (e) If located on a flat roof, then adequate screening should be provided in order to not be visible from the public right-of-way, parking lots and adjacent property. Sight line drawings depicting the visual sight lines from the right-of-way, parking lot and adjacent properties should be provided at the time of Site Plan Review.

(2) Ground-mounted solar energy systems provided:

- (a) Solar panels may be installed on a ground-mounted apparatus only on lots with a minimum lot size of five (5) acres.
- (b) Shall not be located within the front yard, easements or utility line and along the front façade of the building.
- (c) Such systems shall not exceed ten (10) feet in height.
- (e) Systems shall be located and installed so that the sun glare is directed from an adjoining property line or public right of way.
- (f) Systems shall be designed by using materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.

(C) Solar energy commercial operations are prohibited as a principal use. These are systems whose main purpose is to generate energy back into the energy grid systems rather than being consumed on site.

(D) Signs. There shall be no signs that are visible from any public road posted on a solar energy system or any associated building, except for the manufacturer's or installer's identification in accordance with Subsection H below, appropriate warning signs or owner identification. Solar energy systems shall not be used for displaying any advertising except for small and reasonable identification of the manufacturer or operator of the system. In no case shall any identification sign be visible from a property line.

(E) Utility notifications and interconnection. Solar systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C 14:4-9.

(F) Labeling requirements.

- (1) A minimum of one sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition, the following information shall be posted on a label or labels on the interconnection cabinet of the solar energy system:

- (a) The maximum power output of the system.
  - (b) Nominal voltage and maximum current.
  - (c) Manufacturer's name, address and telephone number, serial number and model number.
  - (e) Emergency and normal shutdown procedures.
- (2) Should the solar energy system interconnection cabinet be located on the inside of a structure, a sign notifying the existence of a solar energy system shall be placed on the outside of the building, near the electrical and/or gas meter in order to notify emergency personnel of the solar energy system.

H. Standards for and regulation of Solar Energy System.

- (1) Construction. Solar energy system construction shall be in accordance with the appropriate sections of the Basic Building Code as adopted and as currently amended, by the State of New Jersey and any future amendments and/or revisions to same.
  - (2) The installation of a solar energy system shall conform to the National Electric Code as adopted by the NJDCA and/or any other applicable agency with jurisdiction. The installation of a solar energy system is subject to any and all the electric utility company's requirements for interconnection, its successors and assigns, and/or designated by state authority, in perpetuity.
  - (3) The design of any solar energy system shall be signed and sealed by a professional engineer, licensed in the State of New Jersey, certifying that the design complies with all the standards set forth for safety and stability in all applicable codes then in effect in the State of New Jersey and all sections referred to hereinabove.
  - (4) Utility company notification. The appropriate electric utility company, its successors and assigns, and/or as designated by state authority, shall be notified in writing by the applicant of any proposed interface to the company's grid prior to installing such interface and shall conform to any legislated requirements governing installations of solar energy systems so as to comply with the utility tariff specifications. Evidence of such notification shall be submitted at time of application for conditional use approval and building permit.
- I. All electric/utility lines shall be located underground. All electric and utility lines leading down the side of the structure from rooftop installations shall be placed and tacked as aesthetically as possible.
- J. Any approval of a solar energy system does not create any actual or inferred solar energy system easement against adjacent property and/or structures. The owner and/or property owner of a solar energy system shall not infer or claim any rights to protective writs to any caused shadows or operating ineffectiveness against future development adjacent to or higher than the property location of the solar energy system. Although the Borough of New Providence may to an extent possible attempt to mitigate or prevent the occurrence or cause shadows or operating ineffectiveness of existing solar energy systems, the approval of any solar energy system granted by the Borough of New Providence under this article shall not

create any future liability or infer any vested rights to the owner and/or property owner of the solar energy system on the part of the Borough of New Providence or by any other officer or employee thereof for any future claims against said issuance of approval of the solar energy system that results from reliance on this article or any administrative decision lawfully made there under.

K. No equipment, framing or other materials directly related to solar operations for any residential or commercial use shall be abandoned in place and whereby after a unit is non-functional or no longer in use, it must be dismantled and removed in its entirety within 120 days.

L. Approval Requirements.

(1) Site Plan Approval. Site Plan approval from the Planning Board or Board of Adjustment, as appropriate, shall be required for the installation of a solar energy system.

(2) Documents. The Site Plan application shall be accompanied by a plot plan, which includes the following:

- (a) Property lines and physical dimensions of the property;
- (b) Location of the proposed solar energy system;
- (c) The right-of-way of any public road that is contiguous with the property;
- (d) Any overhead utility lines;
- (e) Manufacturer solar energy system specification/cut sheets certified by a licensed New Jersey Engineer, including manufacturer and model;
- (f) A visual site distance analysis must be submitted, including all photos of the subject property, that graphically simulates the appearance of any proposed solar energy system and indicating its view from at least five (5) locations around the property.
- (g) Notification of utility company for interconnection purposes.
- (h) The documents and plans shall contain enough information and accurately depict the installation of the solar energy system for the Borough of New Providence to make a formal decision on the application. The amount of information and accuracy of information shall be in the sole judgment of the Administrative Officer.

M. Expiration. A permit issued for an application approved by the Planning Board or Zoning Board of Adjustment, if appropriate, shall expire if:

- (1) The solar energy system is not installed and functioning within 12 months from the date the permit is issued; or
- (2) The solar energy system is out of service or otherwise unused for a continuous 12 month period.

N. Administration and Enforcement.

- (1) This ordinance shall be administered by the Administrative Officer or other official as designated.
- (2) The Administrative Officer may enter any property for which a permit has been applied for and/or issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
- (3) At the discretion of the Administrator and/or Borough of New Providence Construction Office for which a zoning, building and/or electrical permit was obtained, as applicable, the Borough reserves the right to require the applicant to obtain and submit an "as-built" survey upon completion of the solar energy system evidencing the exact location and height of the structures to ensure said installation is made in accordance with the requirements of the Borough of New Providence.
- (4) The Administrative Officer may issue orders to abate any violation of this ordinance.
- (5) The Administrative Officer may issue a citation for any violation of this ordinance.
- (6) The Administrative Officer may refer any violation of this ordinance to legal counsel for enforcement.

O. Violations.

- (1) It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this ordinance.
- (2) Any person who fails to comply with any provision of this article shall be subject to enforcement and penalties as stipulated in this chapter and article.
- (3) Nothing in this section shall be construed to prevent the Borough Council and/or administrative officers of the Borough of New Providence from using any other lawful means to enforce this article.
- (4) Any solar energy systems installed prior to the adoption of this ordinance are exempt from the provisions of this chapter.

**REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**EFFECTIVE DATE**

This ordinance shall take effect upon passage and publication as provided by law.

INTRODUCTION: April 11, 2011  
PUBLIC HEARING: May 9, 2011  
ADOPTION: May 9, 2011

BOROUGH OF NEW PROVIDENCE  
COUNTY OF UNION  
STATE OF NEW JERSEY

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J. Brooke Hern, Mayor

Attest:

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Wendi B. Barry, Borough Clerk