

Town of Cornwall
Interim Bylaw Regarding Screening and Siting Requirements
for Ground-Mounted Solar Energy Generation Plants

1. Authority; Implementation

- A. This interim Bylaw is enacted pursuant to 24 V.S.A. §§ 2291(28), 4414(15), and 4415.
- B. In accordance with 24 V.S.A. §§ 2291(28)(A), 4414(15)(A) and 4415, this interim Bylaw is intended to be no more restrictive of ground-mounted solar electricity generation plants than the screening requirements governing new commercial development in Cornwall.
- C. The Cornwall Select Board is hereby designated as the municipal body to make recommendations to the Public Service Board applying this Bylaw to ground-mounted solar electricity generation plants.
- D. This interim Bylaw has been adopted by the Town of Cornwall due to the sudden changes wrought by Act 56 of the Vermont Legislature in the 2015 session and to set forth a clear, written community standard regarding the aesthetics of ground mounted photovoltaic systems. Act 56 will require a careful re-writing of sections of the Town Plan and study of Cornwall's role in the state's development of ground-mounted photovoltaics as a renewable energy source. This interim Bylaw, adopted as an emergency measure, shall be in effect for two years from the date of its adoption by the Cornwall Select Board, or for such extended term as may be allowed by 24 V.S.A. § 4415, while the Cornwall Select Board and Planning Commission study the issue of ground mounted solar screening, siting, and setbacks in the Town. The Cornwall Select Board is adopting this interim Bylaw in order to protect the general welfare of Cornwall residents and land owners and to provide for orderly physical and economic growth within the Town.

2. Definitions

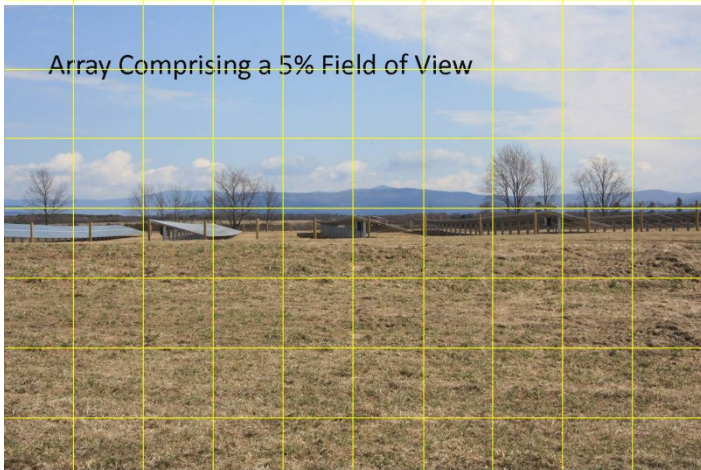
- A. "Field of view" from a given point means the area visible within a photograph taken from that point with either of two camera and lens combinations as follows:
 - A Digital Camera with a Full-Frame Sensor and a 50mm focal length lens
 - A Digital Camera with an APS-C Sensor and a 35mm focal length lens.
- B. "Commercial development" means all development other than for residential, agricultural, governmental purposes or by a religious institution, the construction of which is subject to the review of the Cornwall Planning Commission and/or any Development Review Board created by the Town. "New commercial development" means any commercial development the construction of which commenced after the effective date of this interim Bylaw.

- C. “Plant” has the meaning set forth in 30 V.S.A. § 8002(14).
- D. “Project” means a) a ground-mounted plant that generates electricity from solar energy, including any accessory structures, but excluding utility poles or b) new commercial development within the Town of Cornwall. A project does not include, and this interim bylaw does not apply to, a solar generation plant of 15 kw (DC) or smaller.
- E. “Project footprint” is the area within a perimeter line that encompasses all of the components of a project (e.g., solar panels, transformers and other electrical equipment, fencing, etc.).
- F. “Screening” means reasonable aesthetic mitigation measures to harmonize a project with its surroundings and includes landscaping, vegetation, fencing, and topographic features, which must be maintained for the life of the Project.
- G. The term “setback” as used in this section shall have the same meaning as set forth in 30 V.S.A § 248(s)
- H. “Town” means the town of Cornwall, Vermont.
- I. “Visible area” refers to the portion of a project that is not blocked from view by screening.

3. Screening Requirements

- A. Each project, any part of which is proposed to be constructed within the Town, must be designed and constructed of materials, colors and textures that blend into the surrounding natural or built environment to the maximum extent feasible.
- B. Each project shall incorporate screening that (i) breaks up the visible area of the project so as to prevent unobstructed views; (ii) mitigates adverse aesthetic impacts on views from residences and public highways; and (iii) harmonizes the project with the character of the surrounding landscape and neighborhood.
- C. In addition to the requirements of subsection B above, any project whose total footprint (as defined below) exceeds 25,000 square feet must incorporate sufficient screening to ensure that the visible area of the project represents no more than 5% of the field of view from any of the following: (i) any point within a residence, (ii), any point within 150 feet

of a residence, or (iii) any point on a public highway.



- D. Plantings for screening purposes shall be of sufficient height, density and maturity to achieve the screening standard within five years of planting.
- E. The screening requirements of this Section apply year-round during the entire period of existence of a project. Screening must remain in place until a project has been fully decommissioned and the site restored to its pre-installation condition.
- F. A project shall be sited within a parcel in such a manner as to make maximum use of pre-existing vegetation, hedgerows, hills, ridges, buildings, and other topographical features and structures that naturally screen the project, thereby minimizing the need for the installation of new screening materials.
- G. Where new screening materials must be installed or planted to ensure compliance with this interim Bylaw, natural, living, native screening materials such as native trees and shrubs shall be used in lieu of artificial screening materials such as walls, fences, and other structures; provided, however, that limited use of artificial screening materials is permissible to the extent that (i) the use of living screening in that area is not feasible, and (ii) the artificial screening is of size, scale and materials that are consistent with the character of the surrounding neighborhood and landscape.
- H. Maintenance of landscaping and screening shall be the joint and several responsibility of the developer and property owner on which the energy project or new commercial development resides. Dead, dying or diseased plants used in screening shall be promptly removed and replaced as soon as possible, consistent with good landscape planting practice, and in the case of any solar project such obligations shall be a condition of any certificate of public good granted by the Public Service Board, or any successor body having jurisdiction over such project.

- I. The screening standards set out above shall be achieved entirely within the property containing the project, and not on “borrowed” lands or lands of any affected property owner.
- J. Siting: A project’s location in the landscape constitutes a critical element in the aesthetic siting of a project. Poor siting cannot be adequately mitigated. Accordingly, the first element any solar developer must consider is the proposed site's aesthetic impact on the surrounding landscape.

Good solar project sites generally have several of the following characteristics:

- Roof-mounted systems;
- Systems located in close proximity to, or screened by, existing large-scale commercial, industrial or agricultural buildings;
- Proximity to existing hedgerows, evergreen vegetation, berms, hills, or other topographical features that naturally screen some aspects of the proposed array;
- Reuse of former brownfields or otherwise impacted property, which otherwise complies with the set-back requirements of this interim Bylaw.

Poor solar project sites generally have several of the following characteristics:

- No natural screening;
- Topography that causes the arrays to be visible against the skyline, or from hiking trails or scenic bicycle routes, public, historic or scenic places, and common vantage points like roads or neighborhoods;
- A location that requires clear-cutting or fragmentation of the working landscape, including forestland, open farm land, and primary agricultural soils, as mapped by the U.S. Natural 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;
- A location in proximity to and interfering with a significant viewshed. Significant viewsheds within the Town of Cornwall include the Town’s scenic by-ways and historic districts.

4. **Set backs.** This subsection sets minimum Cornwall setback requirements that shall apply to ground-mounted solar electric generation facilities in the Town approved by the Vermont Public Service Board under 30 V.S.A. § 248.

(1) The minimum setbacks shall be:

(A) from a State or municipal highway, measured from the edge of the traveled way:

- (i) 100 feet for a facility with a plant capacity exceeding 150 kW; and
- (ii) 40 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(B) From each property boundary that is not a State or municipal highway:

- (i) 50 feet for a facility with a plant capacity exceeding 150 kW; and
- (ii) 25 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(2) This subsection does not require a setback for a facility with a plant capacity equal to or less than 15 kW (DC).

(3) In order to avoid clustering of solar projects, no solar project shall be located with XXX feet of any other solar project.

(4) The requirements of the setbacks in this section may be decreased to the minimums set forth in Act 56 if the project developer can demonstrate to the Select Board that the topography of a site naturally screens 100% of project view from the boundary line in question.

5. Decommissioning. In order to preserve the aesthetic qualities of Cornwall's rural character all solar projects shall be decommissioned at the end of their useful life and the property shall be restored to its pre-project condition. Developers of all projects 100 kW and greater shall provide the town with appropriate assurances to guarantee funding exists to decommission the project. The end of the useful life of the project shall be deemed to occur when less than 20 percent of the project is used for its original purpose.
6. [Solar developers should] Practice a "good neighbor policy". The siting of the array should be done in such a manner that the array creates no greater burden on neighboring property owners or public infrastructure than it does on the property on which it is sited.
7. **Waiver.** Under this interim Bylaw, the Cornwall Select Board may, upon application, authorize or support the issuance of permits for projects as a conditional use not otherwise permitted by this interim Bylaw, after public hearing preceded by notice in accordance with 24 V.S.A. § 4464. Such authorization or waiver by the Cornwall Select Board shall be granted only upon a finding by the body that the proposed use is consistent with the health, safety, orderly development, and welfare of the municipality and the standards contained in 24 V.S.A. § 4464(e). The applicant and all abutting property owners shall be notified in writing of the date of the hearing and of the Select Board's final determination.
8. **Severability.** If any section of this interim Bylaw is held by a court or administrative agency of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this interim Bylaw.
9. **Effective Date:** This interim Bylaw shall become effective upon the affirmative vote of the majority of the Cornwall Select Board, subject to the notice and public hearing requirements of 24 V.S.A. §4415.