

**ORDINANCE #2703-23-0403**

**AMENDING CHAPTER 102-116 OF THE LAND USE CODE ENTITLED  
“CONDITIONAL USES” SECTION “T” ENTITLED “SOLAR ENERGY SYSTEMS”  
SUBSECTION (e), (f) & (k) CONSISTING OF CHANGES TO SOLAR PANEL  
LOCATION, ELECTRICITY GENERATION AND NON-RESIDENTIAL APPLICATIONS**

**SECTION I**

**WHEREAS**, Chapter 102-116(T), shall be amended, specifically subsections (e), (f) & (k); and

**WHEREAS**, Chapter 102-116(T), shall read as follows:

**§ 102-116 Conditional Uses.**

Any use listed as a conditional use in a particular district may be permitted by the Planning Board, but only after it has determined that the development proposal complies with the conditions and standards set forth herein for the location and operation of such use. No conditional use shall be granted unless the use will not be detrimental to the health, safety, and general welfare of the Borough, is not likely to involve risks to traffic safety or traffic congestion and is necessary for the general welfare of the community.

**T. Solar energy systems. [Added 12-2-13 by Ord. No. 2424]**

- (1) Due to the nature of the small residential lot sizes found within the Borough, ground mounted solar energy systems shall not be installed.
- (2) In all zone districts the following are conditionally permitted:
  - (a) No roof-mounted solar energy systems shall be installed on a nonconforming structure unless micro inverters are used or documentation is provided that demonstrates that the string inverter produces less than 50dBA at the property line. **[Amended 5-20-2018 by Ord. No. 2572]**
  - (b) A roof-mounted solar energy system shall be mounted parallel to the roof angle and shall not exceed a height of six (6) inches above the edge of the roof line or above the highest point of the roof surface or structure;
  - (c) A roof-mounted solar energy system that is mounted on a flat roof may be angled to achieve maximum sun exposure but shall not exceed five (5) feet above the roof and shall comply with the height regulations of the zone district.
  - (d) In no instance shall any part of a solar energy system extend beyond the roof edge.
  - (e) Roof-mounted solar energy systems are discouraged from being erected on the front roof of a structure which faces a street. Solar energy systems shall be located on a rear-facing or side-facing roof, as viewed from any adjacent street, unless

such installation is proven to be not as ineffective or impossible. ~~This removal of potential obstructions such as vegetation shall not be sufficient cause for permitting a front-facing installation. Front-facing installation may be permitted if the applicant provides valid reasons why this is the only effective or possible means for utilizing solar energy on the property or photovoltaic roof shingles are used which are harmonious with nonphotovoltaic roof shingles. If the applicant proposes to use panels on a structure which faces a street, an analysis from a design professional (as defined by the NJ UCC) shall be submitted stating that installation of said panels on other roof structures is ineffective or not possible. [Amended 5-20-2018 by Ord. No. 2572]~~

- (f) ~~Solar energy systems installed for the purpose of generating electricity shall generate no more than ten (10) kW per residential dwelling or commercial building or be sized to generate more power than what is required by said structure. All solar energy systems shall be grid-tied.~~
- (g) Solar energy systems shall be designed by a design professional (as defined by the New Jersey Uniform Construction Code). This design includes providing detailed calculations and engineered drawings of the rooftop mounting system, electrical cables shall be concealed below the roof line. **[Amended 5-20-2018 by Ord. No. 2572]**
- (h) Invertor noise shall not exceed 50 dBA at the property line.
- (i) The design of the solar energy system shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend into the natural setting and existing environment.
- (j) A solar energy system shall not add, contribute to or be calculated to cause an increase in the improvement coverage of the lot.
- (k) ~~All applications on nonresidential property require minor site plan approval that is not eligible for site plan waiver (unless the project meets is defined as a major site plan application). On residential lots (which are site plan exempt) the~~ All applicants shall submit the necessary information to the Zoning Officer for review.
- (l) Any approval of a solar energy system does not create any actual or inferred solar energy system easement against adjacent or surrounding 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. The approval of any solar energy system granted by the Borough of Somerville 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 Somerville or by any other officer or employee thereof for any future claims against said issuance or approval of the solar energy system that result from reliance on this Article or any administrative decision lawfully made thereunder.

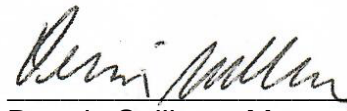
**SECTION 2.** If any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION 3.** If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

**SECTION 4.** This ordinance after introduction shall be sent to the Somerville Planning Board for review and comment.

**SECTION 5.** This Ordinance shall take effect upon passage and publication and submission to the County Planning Division in accordance within applicable law.

Introduction: April 3, 2023  
First Publication: May 1, 2023  
Adoption: May 15, 2023  
Final Publication: May 22, 2023

  
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Dennis Sullivan, Mayor

  
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Kevin Sluka, Clerk/Administrator