

WEST ORANGE TOWNSHIP PLANNING BOARD

RESOLUTION RECOMMENDING THE DRAFTING OF NEW SUBSECTIONS 25-33 AND 25-34 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE ENTITLED “LAND USE REGULATIONS”

WHEREAS, the West Orange Township Planning Board (the “Board”), having retained Phillips, Preiss, Grygiel, Leheny, Hughes LLC, planning and real estate consultants to assist with the preparation of the Township’s 2019 Master Plan Reexamination, pursuant to N.J.S.A. 40:55D-89, incorporated the input of the Township's residents and business community, through public meetings and with a majority of a quorum of the Board present at the Board’s January 8, 2020 regular meeting officially voted in favor of adoption of a re-examination report which recommended specific Plan Element Amendments; and

WHEREAS, the aforementioned duly adopted re-examination report includes recommendations for amending the Township’s Land Use Regulations (Ch.25) so as to encourage the use and development of environmentally sustainable infrastructure and building design; and

WHEREAS, per discussion at the Board’s May 6, 2020 regular meeting, a memorandum dated June 23, 2020 was prepared by the Board’s Planning Consultant which featured drafts of amendments to the Township’s Land Use Regulations (Ch.25); and

WHEREAS, the June 23, 2020 memorandum drafts would add subsection 25-33 and subsection 25-34 of the Revised General Ordinances of the Township of West Orange, respectively; and

WHEREAS, the draft of new subsection 25-33 (Exhibit A) would permit and regulate the use of “Solar Energy Systems” in all zone districts; and

WHEREAS, the draft of new subsection 25-34 (Exhibit B) would permit and regulate the use of electric vehicle infrastructure in all zone districts; and

WHEREAS, a quorum of the Board discussed and reviewed the merits of the draft new subsections at a regular meeting of the Board on August 5, 2020 and voted in favor of recommending that the Township Council consider drafting such amendments; and

WHEREAS, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26a, the Board acknowledges its ongoing duty to, upon referral from the Township Council, identify any provisions in the proposed new subsections which are inconsistent with the Master Plan and make recommendations concerning any inconsistencies and any other matters as the Board deems appropriate;

NOW, THEREFORE, BE IT RESOLVED the Planning Board recommends that the draft of the new proposed subsections, a copy of which are attached hereto as Exhibit A, and Exhibit B, be considered for drafting by the Township Council, the final copy of the result of such consideration which shall be transmitted to the Planning Board for the Board to determine, pursuant to N.J.S.A. 40:55D-26a, whether the proposed new subsections are substantially

consistent with the land use plan element and the housing plan element of the Master Plan, or designed to effectuate such plan element.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board hereby directs the Acting Secretary of the Board to forward this Resolution and attached exhibits to the Township Clerk for Township Council consideration.

**ROLL CALL VOTE ON ACTION TAKEN BY THE BOARD AT REGULAR MEETING-
August 5, 2020**

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)		X	X			
Johnson (1 st Alt.)			X			
Smeraldo			X			
Klein						X
McCartney			X			
Trenk			X			
Wegner						X
Weston (Chair)	X		X			
Williams						X
Wilkes			X			

ROLL CALL VOTE ON THE ADOPTION OF RESOLUTION AT REGULAR MEETING-September 2, 2020

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)						
Johnson (1 st Alt.)						
Smeraldo						
Klein						
McCartney						
Trenk						
Wegner						
Weston (Chair)						
Williams						
Wilkes						

CERTIFICATION

I hereby CERTIFY that the foregoing is a true copy of a Resolution adopted by the West Orange Township Planning Board at a publicly noticed meeting held on September 2, 2020, at which a quorum was present.

Sean McCauley
Acting Secretary

EXHIBIT A

ADD THE FOLLOWING NEW SECTIONS:

25-33 SOLAR ENERGY SYSTEMS.

a. Purpose. The Township of West Orange intends to promote the utilization of solar energy systems in order to maximize the utilization of a clean, safe and available energy source.

b. Use regulations. A solar energy system shall be permitted in all zones provided the system is in compliance with all accessory use standards for the zone in which it is located, except that solar parking canopies shall be permitted as an accessory use to any principal use other than one-family and two-family dwellings.

c. Design standards.

1. Roof-mounted. The design of the solar energy system shall conform to applicable local, state and national solar codes and standards. A building permit shall be obtained for the installation of a solar energy system. The highest point of the system shall not exceed the zoning district's height limit what is permitted in the zoning district which they are located for the principal building.
2. Ground-mounted. Accessory ground arrays shall be:
 - (a) Permitted in the rear yard only;
 - (b) Prohibited in the front and side yards, except on corner lots which have no defined rear yard, it may be located in a side yard at a minimum of two times the required front setback from the street line;
 - (c) In conformance with all rear and side yard setback requirements of an accessory structure;
 - (d) Not exceed six feet in height, including the supporting structure; and
 - (e) Be counted as a structure for purposes of calculating lot coverage.
3. Solar parking canopies. A solar parking canopy shall comply with all requirements for an accessory structure in the district in which it is located, except it may exceed the applicable maximum accessory structure height if it will cover an impervious surface parking area. Height may not exceed the height of the primary structure that the parking area serves or the maximum building height in the district in which it is located. Minimum height of the parking canopy must allow clearance for emergency service and service vehicles.
4. Appearance, color, and finish. Solar energy systems shall be painted, finished or screened with landscaping or other materials to the extent reasonably possible to blend the facility into existing structures and natural surroundings in order to minimize potential visual impacts on the surrounding landscape.
5. Signs. Solar energy systems shall not be used for displaying signage or advertising, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

d. Tree removal. The proposed removal of a tree to facilitate the installation of a solar energy system shall be regulated by the provisions set forth in Section 25-27, Tree Protection and Removal, of this Chapter.

e. Abandonment.

1. A solar energy system that is out of service for a continuous twelve-month period will be deemed to have been presumptively abandoned. The Zoning Official may issue a notice of abandonment to the owner of a solar energy system that is deemed to have been abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date. The Zoning Official shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the solar energy system has not been abandoned. In the event that the Zoning Official, after investigation, determines that a solar energy system has been abandoned, the Zoning Official may issue a notice of abandonment during the presumptive twelve-month period and the owner shall have the right to respond to the notice of abandonment.
2. If the solar energy system is determined to be abandoned, the owner of the solar energy system shall remove the facility at the owner's sole expense within six months of receipt of notice of abandonment. If the owner fails to remove the facility, the Zoning Official may, at the option of the Mayor and Council, have the facility removed at the owner's expense, and impose a lien on the property.

f. Violations. It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this section or with any condition contained in a building permit issued pursuant to this section. Solar energy systems installed prior to the adoption of this section are exempt.

EXHIBIT B

25-34 ELECTRIC VEHICLE INFRASTRUCTURE

a. Purpose. The Township of West Orange encourages the transition to electric vehicle use and to expedite the establishment of a convenient, cost-effective electric vehicle infrastructure that such a transition necessitates.

b. Word Usage Generally.

1. Terms defined in other codes. Where terms are not defined in this article and are defined in the Uniform Construction Code, they shall have the same meanings ascribed to them as in the Uniform Construction Code.
2. Terms not defined. Undefined terms shall have their ordinarily accepted meanings.
3. The word “shall” is always mandatory and not merely directory.

c. Terms Defined. As used in this Article, the following terms shall have the meanings indicated:
AC: alternating current (electricity).

Battery: (pl. batteries) a cell or cells onboard an electric vehicle which is used for storing and furnishing electrical energy for the purpose of propelling the vehicle.

Battery Electric Vehicle (“BEV”): an electric vehicle with an onboard battery that operates exclusively from electrical energy from the battery, which battery is charged from an electrical power source (charging station) not onboard the vehicle.

Charging Level: the standardized indicators of electrical force, or voltage at which an electric vehicle’s battery is recharged. Typical electric vehicle charging levels and specifications are:

Level 1 – Slow battery charging (AC). Voltage is 120 volts.

Level 2 – Medium battery charging (AC). Voltage is between 120v and 240v.

Level 3 – Fast battery charging (DC). Voltage is greater than 240v.

Charging Station: equipment that has as its primary purpose the transfer of electric energy by conductive or inductive means to a battery or other energy storage device located onboard an electric vehicle. Various types of charging stations include:

Accessible Charging Station: a charging station incorporated into or immediately adjacent to a handicapped parking space as “handicapped parking space” is defined by Sec. 13-21.3(a) of the Township Code.

Level 3 Charging Station: (sometimes referred to as a DC Fast charging station) a charging station that provides any single-phase voltage or current rating higher than that of Level 2, or any three-phase supply voltage configuration.

Private Charging Station: a charging station that is: (1) privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking, etc.); or (2) publicly owned and restricted access (e.g., fleet parking with no access to the general public).

Public Charging Station: a charging station that is: (1) publicly owned and publicly available (e.g., park & ride, public parking lots, on-street parking, etc.); or (2) privately owned and publicly available (e.g., shopping center parking, non-reserved parking in multi-family parking lots, etc.).

Charging Station Equipment: the conductors, including ungrounded and grounded, and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, charging stations or apparatus installed specifically for the purpose of delivering electrical energy from the charging station to the electric vehicle.

Charging Station Space: a dedicated, marked space that identifies the use thereof as exclusively for the charging of electric vehicles.

DC: direct current (electricity).

Electric Scooters and/or Motorcycles: a 2-wheel or 3-wheel electric vehicle that operates exclusively on electrical energy stored in the vehicle’s batteries.

Electric Vehicle: a vehicle that operates, either partially or exclusively, on electrical energy from a charging station or other electrical energy source that is stored in the vehicle’s battery for propulsion purposes. “Electric vehicle” includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) electric scooters or motorcycles.

Neighborhood Electric Vehicle: an electric vehicle with four (4) wheels that conforms to federal regulations under C.F.R. § 571.500, which can attain a speed of 20 miles per hour (mph) from a stand-still within one (1) mile but cannot exceed a speed of more than 25 mph.

Non-Electric Vehicle: a vehicle that does not meet the definition of “electric vehicle” as provided herein.

Plug-In Hybrid Electric Vehicle (“PHEV”): an electric vehicle that (1) contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor, and; (2) charges its battery primarily by connecting to a charging station or other electrical source not on board the vehicle; (3) may additionally be able to sustain a battery charge using an on-board internal combustion-driven generator; and (4) has the ability to be propelled through the use of electricity.

Motor Vehicle: has the same meaning as provided in Section 39:1-1, et seq. of the Revised Statutes of the State of New Jersey.

d. Permitted Locations for Charging Stations

1. Level 1 and Level 2 charging stations are permitted in every zoning district, when accessory to the primary permitted use of said district. Charging stations located at single-

family and multiple-family dwellings shall be designated as private use only. Installation of Level 1 and 2 charging stations shall be subject to building permit approval.

2. Level 3 charging stations are permitted in the zones set forth in subsection 24.06(A)(2) below when accessory to the primary permitted use for a given parcel of land. Installation thereof shall be subject to building permit approval.
3. If the primary use of a parcel is the retail charging of electric vehicle batteries, then the use shall be considered a gasoline service station for zoning purposes. Installation of such charging stations shall be located solely in zoning districts that permit gasoline service stations.

Charging Station Requirements and Design Criteria

1. Charging Station Space Requirements for Multi-Family Residential and Non-Residential Development.

- (a) *Minimum Requirements.* Charging station spaces shall be included in the calculation for minimum parking spaces that are required pursuant to other Township, County, and State regulations.
- (b) *Number.* Beginning January 1, 2021, development in any of the following districts shall be required to provide electric vehicle infrastructure:

R-G District	Garden apartments
R-M District	Multi-family residences
OB-1 District	Office building
OB-2 District	Office building
B-1 District	Retail business
B-2 District	General business
P-C District	Planned Commercial
O-R District	Office Research
I District	Industry
PURD District	Planned Unit Residential Development
RC District	Residential Cluster Development

All redevelopment areas

- (c) For all of the above-districts, charging stations shall be required when any one of the following occurs: (1) a new building with a new or existing off-street parking facility is developed; (2) an addition or improvement to an existing building is made that increases the size of the principal structure by more than 50 percent; or (3) the parking capacity of an existing building, site, or parking facility is increased by more than 50 percent.
- (d) The required number of charging stations for all zones set forth above shall be 3 percent of the total number of parking spaces, with any fractional spot being rounded up to the nearest whole number.
- (e) With respect to all other districts within the Township, in order to proactively plan for and accommodate the anticipated growth in market demand for electric vehicles, it is strongly encouraged, but not required, that all new construction in those zones be constructed to provide a 220-240-volt/40 amp outlet on a dedicated circuit in close

proximity to designated vehicle parking to accommodate the potential future hardwire installation of a Level 2 charging station.

2. Ground Charging Station Space Location and Design Criteria for Multi-Family Residential and Non-Residential Development.

- (a) Where provided, spaces for charging station purposes are required to include the following:
 - (1) *Signage.* Each charging station space shall be posted with signage as described further herein in Subsection 25-34g.
 - (2) *Maintenance.* Charging station equipment shall be maintained in all respects. Contact information, such as a phone number, shall be provided on the charging station equipment for reporting purposes when the equipment is not functioning correctly, or other equipment problems are encountered.
 - (3) *Accessibility.* Where charging station equipment is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the charging station equipment shall be located so as not to interfere with accessibility requirements of the New Jersey Accessibility Code, N.J.A.C. 5:23-7.2, *et seq.*, or other applicable accessibility standards.
 - (4) *Lighting.* Where charging station equipment is installed, adequate site lighting shall be provided in accordance with the Township Code.
 - (5) *Charging Station Equipment.* All required charging stations shall be Level 2 or Level 3, which may be determined at the property owner's discretion. Charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted and shall contain a retraction device and/or a place to hang permanent cords and connectors a safe distance above the ground or pavement surface. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel or create trip hazards on sidewalks.

- (6) *Charging Station Equipment Protection.* Adequate charging station equipment protection, such as concrete-filled steel bollards, shall be used. Non-mountable curbing may be used in lieu of bollards if the charging station is setback at least 24 inches from the face of the curb.
 - (7) *Data Collection.* To allow for maintenance and notification, the Township shall require the owners of public charging stations to provide information on the charging station's geographic location, date of installation, equipment type and model, and owner contact information.
 - (8) *Usage Fees.* An owner of a charging station is not prohibited from collecting a fee for the use of a charging station, in accordance with applicable State and Federal regulations. Fees shall be prominently displayed on the charging station.
- (b) Those providing charging station spaces should consider the following:
- (1) *Notification.* Information on the charging station, identifying voltage and amperage levels and time of use, fees, or safety information.
 - (2) *Signage.* Installation of directional signs at appropriate decision points to effectively guide motorists to the charging station space(s) as described further herein.
 - (3) *Location (Specific to On-Street Parking).* Placement of a single charging station is preferred at the beginning or end stall on a block face.

f. Charging Station Location(s)

Accessible Charging Stations. It is strongly encouraged, but not required, that a minimum of one (1) accessible charging station be provided. Accessible charging stations should be in close proximity to the building or facility entrance and shall be connected to a barrier-free accessible route of travel to and from the building or facility. It is not necessary to designate the accessible charging station exclusively for the use of disabled persons.

g. Signage

- 1. Electric vehicle charging stations, other than in residential use, shall have posted signage, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this subsection, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the charging station equipment.
- 2. Each charging station space shall be posted with signage indicating the charging station space is only for use by electric vehicles for charging purposes. Days and hours of operations shall be included if time limits or tow away provisions are to be enforced.
- 3. All signage shall include: (1) information on the charging station to identify voltage and amperage levels and any time of use, fees, or safety information; (2) as appropriate, directional signs to effectively guide motorists to the charging station space(s); and (3) any additional optional signage may be posted to alert potential charging station users as to other expectations.
- 4. All such signage shall additionally be compliant with the Manual Uniform Traffic Control Devices ("MUTCD") as published by the Federal Highway Administration ("FHWA") and shall be made at the recommended sizes described therein.

h. Electric Vehicle Charging Station Regulations

- 1. Charging stations, where provided for public use, are reserved for parking and charging electric vehicles only, except as otherwise provided by this Article.
- 2. Electric vehicles may park in any parking space otherwise designated for parking, subject to the restrictions that would apply to any other vehicle generally.

i. *Prohibitions.* When a sign authorized under Subsection 25-34g provides notice of a designated charging station space, no person shall park or stand a non-electric vehicle therein.

j. Notice of Electric Vehicle Charging Station. Upon adoption of an ordinance by the Township establishing a charging station(s) in on-street or municipally-owned Township parking lots, the Township Engineer shall cause appropriate signs and markings to be placed in and around the designated charging station space(s), indicating prominently thereon the parking regulations therefor. The signs shall define time limits and hours of operation, as applicable, and shall state that the parking space is reserved for the charging of electric vehicles only. Charging station space regulation violators are subject to fine and/or impoundment of the offending vehicle.

k. Applicability of Construction and Land Use Regulations. Nothing in this Section shall be interpreted as a waiver, replacement, or substitute for any installation that requires a Construction Code or Land Use Approval under applicable provisions of any statute, ordinance, rule or regulation. Installation of charging stations to an existing parking space is exempt from any such site plan review.

l. Violations and Penalties.

1. The Police Department, through its officers, shall enforce this Article as regulated by the Township Code.
2. The Zoning Official shall enforce all signage and installation requirements described in this Article pursuant to the provisions of Section 25-40.5 of this Chapter.