Staff Analysis and Recommendation

To: **Honorable Mayor and Council Members**

From: **Edward Pidermann, Town Manager**

Subject: **Solar Energy Systems**

Date: **October 8, 2019**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO SOLAR ENERGY SYSTEMS; AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE", AT ARTICLE V, "ALLOWABLE ENCROACHMENTS INTO THE REQUIRED YARDS AND EXCEPTIONS TO THE MAXIMUM PERMITTED HEIGHTS", AT ARTICLE VI, "SUPPLEMENTARY REGULATIONS", AND AT ARTICLE VII, "ENVIRONMENTAL REGULATIONS" PROVIDING FOR FINDINGS OF FACT, INTENT AND PURPOSE; PROVIDING FOR REGULATIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

A.   BACKGROUND

On July 17, 2018, Town Council directed the Town Manager to explore the possibility of an ordinance to provide for regulations that address solar energy systems and could potentially result in a Solsmart designation for the Town. SolSmart is a national designation program created to recognize communities that have taken key steps to address local barriers to solar energy and foster the growth of mature local solar markets. Solsmart is funded by the U.S. Department of Energy's Solar Energy Technologies Office (SETO). It provides no-cost technical assistance from a team of national experts to evaluate local government programs and practices that impact solar markets and to find opportunities for improvement. It also seeks to increase installed solar capacity by reducing the "soft costs" of solar such as permitting, financing, and installation, thus making it easier for local residents and businesses to acquire solar.

Solsmart provides a three-tiered designation system based the number of points accumulated through improvements to the code and permitting procedures:

- *Bronze designation* requires that a community meet the overall program requirements, earn 20 points each in the permitting, planning, zoning, and development regulation categories, and achieve an additional 20 points across all remaining categories.
- *Silver designation* requires that a community must first achieve the requirements for SolSmart Bronze, then meet additional requirements in planning, zoning and development regulations and inspection procedures, and earn 100 points total across all categories.
- *Gold designation* requires that a community must first achieve the requirements for SolSmart Silver, then meet one additional requirement in permitting and achieve 200 points total across all categories.

On March 19, 2019 at a duly advertised workshop, the Town Council directed staff to take the steps necessary to achieve Gold Designation.

On July 24, 2019 the Planning and Zoning Board, acting in its capacity as the Local Planning Agency voted to recommend approval of the ordinance, with the recommendation to remove pole mounted systems from the list of solar energy devices that are allowed as of right, or consider further limiting their height.

On August 20, 2019, Staff was contacted by Solmart staff with the announcement that the Town had accumulated 155 points, enough to obtain Bronze designation, as well as a Special Recognition Award for earning over 60% of the available points in the Inspection criteria category.

On September 10, 2019 The Town Council voted to approve the ordinance on first reading.

B.   PROPOSED CHANGES

The following described elements are presented in the same order that they appear in the proposed ordinance.

13-1702(a) – Definitions. This section provides the necessary definitions of terms applicable to the regulation of soar energy systems.

13-1702(b) – Solar Energy Systems, Accessory use. This section provides regulations for solar energy systems whose purpose is to collect solar energy to be used on site.

13-1702(c) – Primary use solar energy systems. Stipulates that only industrial districts, governmental facilities and Interim Use districts allow for stand alone solar energy systems, not associated or incidental to another permitted use.

13-1702(d) – Decommissioning. Provides for the removal of any inoperable system.

C.   STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance creating Section 13-1702 as it relates to solar energy systems within the Town.

E.   ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1.   **Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

   Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. The ordinance provides for regulations to properly allow solar energy systems in various capacities. As proposed, and presented in Section "A", and "B", above, the amendment conforms to the following policies of CDMP below.

   Policy 1.2.11:   Encourage the use of energy-saving materials and techniques in the construction of public and private buildings in the Town.

   Policy 1.5.5:   Retain and strengthen regulations protecting, air quality and water quality for traditional and new alternative sources by implementing the standards for these resources established by applicable local, regional, state and federal environmental agencies.

   Finding: Complies

2.   **Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

   Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. The amendment provides for standards for installation of solar energy systems. In its current form the LDC lacks any definitions or mention of such systems. The proposed is in conformance with all other requirements of the LDC.

   Finding: Complies.

3.   **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

   Analysis See Sections "A", Background; and "B", Proposed Changes, of this report. Solar energy systems are becoming more and more efficient and affordable, and thus demand for installations is increasing. It is necessary for the LDC to address and regulate the installation of these systems.

   Finding: Complies.

4.   **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or**

neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. solar systems are allowed only as accessory uses in most districts, where most incompatibilities could result. Solar energy systems as a primary use are only proposed to be allowed in districts that would allow other similar uses that generate energy.

Finding: Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. The proposed ordinance does not impact the above systems.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. The intent of the ordinance is to allow for and regulate the installation of Solar energy systems which would decrease reliance on other more polluting forms of energy. In so doing, the ordinance will have a net positive affect on the Town's natural environment.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Sections "A", Background; and "B", Proposed Changes, of this report. Solar energy systems add value to the properties that install them and as such, the proposed ordinance is in the interest of the general welfare of the Town and its residents.

Finding: Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Sections "A", Background; and "B", Proposed Changes; and Criteria 1, 2, and 4, of this report.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Sections "A", Background; and "B", Proposed Changes; and Criteria 1, 2, 4, 6, and 7 of this report.

Finding: Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed amendment is appropriate and consistent with the public interest.

Finding: As determined by the Town Council.