

LOCAL LAW NO. _____ OF THE YEAR 2016

BE IT ENACTED by the Town Board of the Town of Wappinger as follows:

Section -I: Title:

This Local Law shall be known and cited as “Adoption of Zoning Provisions for Solar Energy Systems for the Town of Wappinger.”

Section -II: Amendment of Article II of Chapter 240 to Add Definitions to Regulate Solar Energy Systems

Section 240-5 of Article II (Definitions) of Chapter 240 (Zoning) of the Town of Wappinger Code shall be amended by adding the following definitions:

- (1) **BUILDING INTEGRATED PHOTOVOLTAIC PRODUCT.**
A building product that incorporates photovoltaic modules and functions as a component of the building envelope, which includes photovoltaic siding, photovoltaic canopies and awnings, photovoltaic shingles and other photovoltaic roof coverings. (ICC Code Def)
- (2) **BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM.**
A solar energy system that uses BUILDING INTEGRATED PHOTOVOLTAIC PRODUCTS.
- (3) **GROUND MOUNTED SOLAR ENERGY SYSTEMS.**
A solar energy system mounted on a structure, pole or series of poles constructed specifically to support the photovoltaic system and attach it to the ground and not attached to any other structure. GROUND MOUNTED SOLAR ENERGY SYSTEMS include Ground Mounted Photovoltaic Systems and Ground Mounted Solar Thermal Systems.
- (4) **NET ENERGY METERING**
Use of a net energy meter to measure the net amount of electricity supplied to the premises equipped with a Solar Energy System less the electricity provided by the Solar Energy System to the electric corporation. Net metering shall be in accordance with NY Public Service Law §66-j.
- (5) **PHOTOVOLTAIC MODULE.**
A complete, environmentally protected unit consisting of solar cells, optics and other components, exclusive of a tracker, designed to generate DC power when exposed to sunlight. (ICC Code Def)

- (6) **PHOTOVOLTAIC PANEL.**
A collection of modules mechanically fastened together, wired, and designed to provide a field-installable unit. (ICC Code Def)
- (7) **PHOTOVOLTAIC PANEL SYSTEM.**
A system that incorporates discrete photovoltaic panels, that converts solar radiation into electricity, including rack support systems. (ICC Code Def)
- (8) **QUALIFIED SOLAR INSTALLER**
A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.
- (9) **ROOFTOP MOUNTED SOLAR ENERGY SYSTEMS.**
A solar energy system installed on or above the roof covering. **ROOFTOP MOUNTED SOLAR ENERGY SYSTEMS** include Rooftop Mounted Photovoltaic Systems and Rooftop Mounted Solar Thermal Systems.
- (10) **ROOFTOP MOUNTED PHOTOVOLTAIC SYSTEM.**
A photovoltaic panel system installed on or above the roof covering. Rooftop Mounted Photovoltaic System are comprised of photovoltaic panels that are fixed and flush-mounted to the roof, rack supported systems that may be articulated and titled or a combination of the two. Rooftop Mounted Photovoltaic System does not include Building Integrated Photovoltaic Products like photovoltaic roof coverings.
- (11) **SOLAR COLLECTOR**
A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
- (12) **SOLAR ENERGY SYSTEM.**
The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. Solar Energy Systems include, but is not limited to, solar photovoltaic (PV) systems, and solar thermal systems.
- (13) **SOLAR FARM**
A Ground Mounted Solar Energy System that is intended to generate electricity or thermal energy for commercial sale in the electricity or energy markets. Ground Mounted Photovoltaic Systems that are net metered and exceed the kW thresholds in the definition of “Solar electric

generating equipment” found at Public Service Law § 66-j(1)(d), are considered a Solar Farm. A Solar Farm is a principal land use for the parcel on which it is located. A Ground Mounted Solar Energy System where the surface area of the solar collectors is greater than 2.0 acres is deemed to be a Solar Farm, notwithstanding that is located on a lot with another use.

- (14) **SOLAR ENERGY EQUIPMENT**
Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed.
- (15) **SOLAR THERMAL SYSTEM.**
An arrangement or combination of solar energy equipment using thermal solar energy to provide space heating or cooling, hot water heating, production of steam and swimming pool heating.
- (16) **UNIFIED SOLAR PERMIT**
The New York State Unified Solar Permit or such other uniform permit promulgated by NYSERDA or other State agency which provides for an expedited building permit review process for Small-Scale Roof-Mounted Photovoltaic System Residential and Commercial Solar Electric.

The following definitions found in Section 240-5 of Article II (Definitions) of Chapter 240 (Zoning) of the Town of Wappinger Code shall be amended to read as follows:

- (17) **UTILITY, PUBLIC**
An electrical substation, electrical transmission line, municipal pump station, water tower, municipal garage, firehouse, telephone substation and/or any utility approved by the Public Service Commission or other regulatory agency. A Solar Energy System that is not subject to NYS Public Service Commission Approval is not a Public Utility.

Section -III: Amendment of Article V of Chapter 240 “Regulations Applicable to All Districts” to Regulate Solar Energy Systems

The Code of the Town of Wappinger shall be amended by adding a new section to the end of Article V of Chapter 240 “Regulations Applicable to All Districts” which shall read as follows:

“§ 240-36.3 Solar Energy Systems

A) Purpose & Intent

- (1) Solar energy is a renewable energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the electrical grid where excess solar power is generated.
- (2) Federal and State subsidies and tax incentives make the installation of solar energy systems financially attractive to the residents and property owners of the Town of Wappinger and may result in reduced energy costs.
- (3) The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town’s current and long-term sustainability agenda.
- (4) This section aims to promote the accommodation of solar energy systems and the provision for adequate sunlight and convenience of access necessary therefor.

B) Applicability

- (1) This Section shall apply to all Solar Energy Systems installed after its effective date. Modifications to an existing Solar Energy Systems that increases the Solar Energy Systems area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subjected to this Section.
- (2) Solar Energy Systems for which a valid Certificate of Completion or Occupancy has been issued prior to the effective date of this Section are not subject to the requirements of this Section but shall be maintained in good working order and are subject to the New York State Uniform Code and other applicable laws, rules and regulations.
- (3) Any building permit for a Solar Energy System that has been properly issued prior to the effective date of this Section but shall be maintained in good working order and are subject to the New York State Uniform Code and other applicable laws, rules and regulations.

C) General Provisions

- (1) No Solar Energy System shall be installed or operated in the Town of Wappinger except in compliance with this Chapter.
- (2) All Solar Energy Systems, including those installed as on-farm equipment in an Agricultural District, shall require a building permit and a certificate of occupancy/compliance upon completion.

- (3) No Solar Energy System shall be operated without a certificate of occupancy or a certificate of compliance.
- (4) All Solar Energy Systems shall comply with the New York State Uniform Fire Prevention and Building Code and The New York State Energy Conservation Construction Code established pursuant to New York Executive Law § 381(2) (“NYS Uniform Code”).
- (5) The installation of all Photovoltaic Panel Systems must be performed by a qualified solar installer.
- (6) Any connection to the electric grid must be made under an approved interconnection agreement and must be inspected and approved by the electric utility.
- (7) Solar energy systems shall be maintained in good working order.

D) Building-Integrated Photovoltaic (BIPV) Systems

- (1) BIPV systems integrated into one family dwellings and accessory buildings for one family dwellings are permitted accessory uses in all zoning districts.
- (2) BIPV systems integrated into new or existing buildings, other than one family dwellings, are subject to site plan or special permit approval in the same manner as the building in which they are installed.
- (3) BIPV systems are subject to all applicable zoning requirements for the building into which they are integrated.

E) Rooftop Mounted Solar Energy Systems

- (1) Rooftop Mounted Solar Energy Systems are permitted accessory uses in all zoning districts.
- (2) Rooftop Mounted Solar Energy Systems installed on one family dwellings and accessory buildings for one family dwellings are permitted accessory uses in all zoning districts.
- (3) Rooftop Mounted Solar Energy Systems installed on new or existing buildings, other than one family dwellings, are subject to site plan or special permit approval in the same manner as the building in which they are installed.
- (4) Notwithstanding the provisions of §240-22, solar collectors may exceed the maximum height limitations for the zoning district provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, however in

no event shall the solar collector exceed the height limitation in the district by more than six feet.

- (5) Non-Conforming Uses. Rooftop Mounted Solar Energy Systems are permitted to be installed on a building housing a non-conforming use provided they conform to the other requirements of this section.
- (6) Dimensionally Non-Conforming Buildings. Rooftop Mounted Solar Energy Systems may be installed on existing buildings that do not conform to the setback requirements of the district provided that they do not increase the non-conformity. Rooftop Mounted Solar Energy Systems may be installed on existing buildings that do not conform to the height requirements of the district provide they comply with subdivision (4) above.
- (7) Roof Mounted Photovoltaic Systems installed on one or two family dwellings may be reviewed under the Unified Solar Permit.

F) Ground Mounted Solar Energy Systems.

- (1) Building permits are required for the installation of all Ground-Mounted Solar Energy Systems.
- (2) Ground Mounted Solar Energy Systems as an accessory use to a one or two family dwelling are allowed by special permit issued by the Planning Board in all zoning districts subject to the provisions of § 240-57.
- (3) Ground Mounted Solar Energy Systems as an accessory use to primary uses other than a one or two family dwelling or farm operation are permitted in all zoning districts of the Town subject to special use permit and site plan approval subject to the provisions of § 240-57.
- (4) Ground Mounted Solar Energy Systems that occupy an area greater than 50% of the footprint of the primary structure(s) shall be considered a Solar Farm which is a principal use.
- (5) A Solar Farm is a principal use allowed in accordance with the Schedule of Uses subject to special use permit and site plan approval.
- (6) Non-Conforming Uses. Ground Mounted Solar Energy Systems are permitted to be installed on a lot housing a non-conforming use provided they conform to the other requirements of this section.

G) Solar Energy Systems on Farm Operations in Certified Agricultural Districts

- (1) No Solar Energy Systems may be installed on a Farm Operation in a Certified Agricultural Districts without the issuance of a building permit as required by the Uniform Code.

- (2) Roof Mounted Solar Energy Systems are permitted accessory uses on Farm Operations in Certified Agricultural Districts subject to the issuance of a building permit as required by the Uniform Code.
- (3) Ground Mounted Solar Energy Systems that are considered to be On Farm Equipment in accordance with the guidance of the NYS Department of Agriculture and Markets are permitted without site plan approval, however they are subject to a limited special permit review by the Planning Board. For purposes of this review the applicant shall provide:
 - (a) Copies of any plans, drawings & specifications of the Ground Mounted Solar Energy System required by the Uniform Code;
 - (b) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. Show the existing features of the site including land and water areas, wetlands and special flood hazard areas and the approximate location of all existing structures on or immediately adjacent to the site. Show the proposed location of the Ground Mounted Solar Energy System as well as any access roadways and utility connections, such sketch need not be prepared by a design professional;
 - (c) Authorization of the owner if the applicant is not the owner of the property; and
 - (d) Application form and fee.
- (4) Ground Mounted Solar Energy Systems on farms that are not “on farm equipment” are Solar Farms subject to special permit and site plan approval.
- (5) Solar Farms in certified agricultural districts should be located in such a manner to minimize impacts to the most productive agricultural soils on the property.

Section -IV: Amendment of Article VIII of Chapter 240 “Supplementary Special Permit Uses Regulations” to Regulate Solar Energy Systems

The Code of the Town of Wappinger shall be amended by adding a new section to the end of Article VII of Chapter 240 “Supplementary Special Permit Uses Regulations” which shall read as follows:

“§ 240-57 GROUND MOUNTED SOLAR ENERGY SYSTEMS

A) Ground Mounted Solar Energy System as an Accessory Use

- (1) Ground Mounted Solar Energy Systems, as an accessory use to a single family dwelling, are allowed by special permit issued by the Planning Board without site plan approval in all zoning districts of the Town provided that:
 - (a) the surface area of the solar collectors of such ground mounted solar energy system is 50% or less of the footprint of the primary structure on the parcel, and
 - (b) the surface area of such ground mounted solar energy system shall not exceed 0.5 acres;
- (2) Ground Mounted Solar Energy Systems, as an accessory use for all primary uses other than a single family dwelling or farm, are permitted in all zoning districts of the Town subject to site plan approval provided that:
 - (a) the surface area of the solar collectors of such ground mounted solar energy system is 50% or less of the footprint of the primary structure on the parcel, and
 - (b) the surface area of such ground mounted solar energy system shall not exceed 2.0 acres.
- (3) Ground Mounted Solar Energy Systems located on a lot with another principal use shall be considered a Solar Farm if the surface area of the solar collectors exceeds the limits set forth in subdivisions (1)(b) and (2)(b) above.

B) Solar Farms

- (1) A Solar Farm is a principal use allowed in the R-40/80, RA-3, RA-5, AI and COP Districts subject to special use permit and site plan approval.
- (2) Site Plan Approval Required. A site plan application shall be submitted and reviewed in accordance with the provisions of Article IX of this Chapter for all Solar Farms.
- (3) A Ground Mounted Solar Energy System that is sole use on a lot is considered to be a Solar Farm regardless of size.
- (4) Ground Mounted Photovoltaic Systems that are net metered and exceed the kW thresholds in the definition of “Solar electric generating equipment” found at Public Service Law § 66-j(1)(d), are deemed to be Solar Farms and shall be a principal land use for the parcel on which it is located regardless of the presence of another use.
- (5) Ground Mounted Solar Energy Systems located on a lot with another principal use shall be considered a Solar Farm if the surface area of the panels exceeds 50% of the footprint of the primary structure(s), exceed 0.5 acres in area for lots with a single family dwelling, or exceed 2.0 acres in

area for all other lots. A Solar Farm on a lot with another principal use is only permitted in the zoning districts set forth in subdivision (1) above.

- (6) Power and communication lines. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Planning Board.
- (7) Aviation Protection. For Solar Farms located within 500 feet of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
- (8) Where an interconnection with an electric public utility is proposed, evidence of consent by the utility for the connection shall be demonstrated.
- (9) Decommissioning. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The site plan shall include provisions for removal of all supporting structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The Town may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

C) Special Permit Standards for All Ground Mounted Solar Energy Systems

- (1) All portions of the Ground Mounted Solar Energy System must meet all applicable setback requirements for primary structures in the zoning district in which it is located.
- (2) Solar Collectors shall not be included in any calculation of impervious surface or impervious cover, however the base or foundation of the Solar Collector shall be included in any calculation.
- (3) Ground Mounted Solar Energy Systems shall meet all other applicable zoning district requirements.
- (4) Where a Ground Mounted Solar Energy Systems is located within 100 feet of an adjacent property in a residential district or a street, it shall be screened by existing vegetation or topography or through the use of

architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

- (5) The height of the solar collector and any mounts shall not exceed 15 feet above the ground.
- (6) There shall be a 10 foot brush free area around the Ground Mounted Solar Energy System and suitable access means for firefighting equipment or such other clearances that may be required by the Uniform Code.

D) Additional Special Permit Standards for Accessory Ground Mounted Solar Energy Systems

- (1) Ground Mounted Solar Energy Systems installed as accessory uses are permitted in a side yard or rear yard.
- (2) The Planning Board may permit the installation of Ground Mounted Solar Energy Systems as an accessory use in a front yard upon a showing that such Solar Energy System may not be located in a side or rear yard and that the system may be adequately screened. The Planning Board may impose any reasonable conditions to protect adjacent properties and the public in general.
- (3) Ground Mounted Solar Energy Systems installed as accessory uses shall not be considered as a building for purposes of determining building coverage of the lot.

E) Additional Special Permit Standards Solar Farms

- (1) Solar Farms are only permitted on lots that conform to the minimum lot size in the district in which they are located except, in the R-40/80 District the minimum lot size shall be sixty (60) acres.
- (2) In a residential district, the total surface area of the solar collectors shall not exceed 10% of the lot area and the total impervious surface for the solar farm shall not exceed 15% of the lot area.
- (3) In a commercial district, the total surface area of the solar collectors shall not exceed the maximum building coverage percentage for the district in which it is located.
- (4) Solar Farms in the R-40/80 District shall have a 300-foot setback and existing trees within the setback should not be removed, except for access roads and utility crossings to provide a landscaped buffer. The landscape buffer may use evergreen and deciduous materials and shall be capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.

Section -V: Amendment to Chapter 240 Schedule of Uses

The Code of the Town of Wappinger shall be amended by revising the Schedule of Use Regulations, Residential Districts located at 240 Attachment 1 to Chapter 240 (Zoning) by revising the Schedule of Uses as follows:

<u>Use</u>	<u>Districts</u>	
	R-5A R-3A R-80 R-40/80 R-40 R-20/40 R-20 R-15 R-10	RMF-3 RMF-5
<u>Utilities</u>		
Solar Farm (permitted in R-40/80, R-5A & R-3A see § 240-57)	*	
<u>Accessory Structures</u>		
Building-Integrated Photovoltaic (BIPV) System	PA	PA
Roof Mounted Solar Energy System	PA	PA
Ground Mounted Solar Energy System	PA	PA

The Code of the Town of Wappinger shall be amended by revising the Schedule of Use Regulations, Non-residential Districts located at 240 Attachment 2 to Chapter 240 (Zoning) by revising the Schedule of Uses as follows:

<u>Use</u>	<u>Districts</u>									
	HB	HM	NB	GB	CC	SC	HD	COP	AI	PUD
<u>Accessory Structures</u>										
Building-Integrated Photovoltaic (BIPV) System	PA	PA	PA	PA	PA	PA	PA	PA	PA	
Roof Mounted Solar Energy System	PA	PA	PA	PA	PA	PA	PA	PA	PA	
Ground Mounted Solar Energy System	PA	PA	PA	PA	PA	PA	PA	PA	PA	
<u>Utilities</u>										
Solar Farm (§ 240-57)								SPU	SPU	

Section -VI: Amendment of Chapter 85 “Building Code Administration” to Regulate Solar Energy Systems

The Code of the Town of Wappinger shall be amended by adding a new section to Chapter 85 of the Town Code § 85-5.1 which shall read as follows:

“§ 85-5.1 Solar Energy System Permits

A) General Requirements for Solar Energy Systems

- (1) No Solar Energy System shall be installed or operated in the Town of Wappinger except in compliance with this Chapter.
- (2) All Solar Energy Systems, including those installed as on-farm equipment in an Agricultural District, shall require a building permit and a certificate of occupancy/compliance upon completion.
- (3) No Solar Energy System shall be operated without a certificate of occupancy or a certificate of compliance.
- (4) All Solar Energy Systems shall comply with the New York State Uniform Fire Prevention and Building Code and The New York State Energy Conservation Construction Code established pursuant to New York Executive Law § 381(2) (“NYS Uniform Code”).
- (5) The installation of all Photovoltaic Panel Systems must be performed by a qualified solar installer.
- (6) Any connection to the electric grid must be made under an approved interconnection agreement and must be inspected and approved by the electric utility.
- (7) Solar energy systems shall be maintained in good working order.

B) UNIFIED SOLAR ENERGY PERMIT

- (1) Roof Mounted Photovoltaic Systems installed on one or two family dwellings may be reviewed under the Unified Solar Permit Application issued by New York State if:
 - (a) Solar installation has a rated capacity of 12 kW or less.
 - (b) Solar installation is not subject to review by an Architectural or Historical Review Board.
 - (c) Solar installation does not need a zoning variance or site plan approval.

- (d) Solar installation is to be mounted on a permitted roof structure of a building, or on a legal accessory structure.
- (e) Solar installation is compliant with all applicable electrical and building codes.
- (f) Solar installation is compliant with New York State Fire Code.
- (g) The solar installation is being performed by a Qualified Solar Installer.
- (h) The proposed equipment meets all relevant codes and certification standards.
- (i) The solar electric system and all components will be installed per the manufacturer's specifications.
- (j) The project will comply with adopted National Electrical Code® requirements.
- (k) The roof has no more than a single layer of roof covering (in addition to the solar equipment).
- (l) The system is to be mounted parallel to the roof surface, or tilted with no more than an 18 inch gap between the module frame and the roof surface.
- (m) The system will have a distributed weight of less than 5 pounds per square foot and less than 45 pounds per attachment point to roof.
- (n) If a Roof Mounted Photovoltaic System meets the requirements listed above, the application for a building permit required by §85-5 are satisfied by using the Unified Solar Permit issued by New York State or any such successor permit that may be promulgated.
- (o) The application fee under the Unified Solar permit is set forth in Chapter 122, Article IV, § 122-16, of the Town Code.

Section -VII: Amendment of Article IV of Chapter 122 “Schedule of Fees” to Regulate Solar Energy Systems

The Code of the Town of Wappinger shall be amended by adding a new subsection to § 122-16(N)(6)(f) within Article IV of Chapter 122 which shall read as follows:

- (f) Uniform Solar Permit: Application Fee: **\$150.00**

Section -VIII: Numbering for Codification:

It is the intention of the Town of Wappinger and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Wappinger; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not effect the validity of this Local Law or the provisions of the Code effected thereby.

Section -IX: Separability:

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Wappinger that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section -X: Effective Date:

This Local Law shall become effective immediately upon filing with the Secretary of State as provided by law Municipal Home Rule Law.