

**TOWN OF RHINEBECK**

**PROPOSED LOCAL LAW NO. \_\_\_\_ OF THE YEAR 2017**

**April 15, 2017  
Revised April 26, 2017**

**BE IT ENACTED** by the Town Board of the Town of Rhinebeck as follows:

**Section 1. Title.**

This Local Law shall be entitled as: “A Local Law Amending the Town Code Chapter 125, Zoning, in the matter of Solar and Wind Energy Systems”.

**Section 2. Amendments to Town Code Chapter 125, Zoning,**

Town of Rhinebeck Town Code Chapter 125, Zoning, Article V, Supplementary Regulations, Section 125-47, Solar and Wind Energy Systems, and Article III, Use Regulations, Section 125-20, District Schedule of Use Regulations, are hereby amended as follows:

**Subsection A**

Present Article V, Supplementary Regulations, Section 125-47, Solar and Wind Energy Systems, is deleted in its entirety.

**Subsection B**

A new Article V, Supplementary Regulations, Section 125-47, Solar Energy Systems, is added reading as set forth below:

**Section 125-47. Solar energy systems.**

A. Purpose and Intent

Solar energy is a renewable and non-polluting 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 grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is both a

necessary and priority component of the Town of Rhinebeck’s current and long term sustainability agenda. It is also consistent with the commitment of Rhinebeck to be a “climate smart” community. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this Section is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties so as to protect the public health, safety and welfare.

## B. Definitions

As used in this Section, the following terms shall have the meanings indicated, unless the context or subject matter requires others. The definitions set forth in Article XIII, Definitions, Section 125-135, of this Chapter shall also apply where appropriate.

**ALTERNATIVE ENERGY SYSTEM** – Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or be separate from the principal structure.

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEM** – A solar energy system that consists of integrating photovoltaic modules into the building envelope system such as vertical facades including glass and other material, semi-transparent skylight systems, roofing materials, and shading over windows.

**COLLECTIVE SOLAR** – Solar installations owned collectively through subdivision homeowner associations, condominium associations, “adopt-a-solar panel” programs, or other similar collective arrangements.

**COLLECTOR** – See SOLAR COLLECTOR.

**FLUSH-MOUNTED SOLAR PANEL** – A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

**FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM** – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this Chapter.

**NET METERING** – A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the public utility grid so that they only pay for their net electricity usage at the end of the month or year.

**PERMIT GRANTING AUTHORITY** – The Town’s Zoning Enforcement Officer and Code Enforcement Officer who are together charged with granting permits for the operation of solar energy systems.

**PHOTOVOLTAIC (PV) SYSTEM** – A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**PRIMARILY** – For purposes of this Section, description of an amount of projected onsite energy demand not less than 90% of projected energy generation.

**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. Persons who are not on NYSEDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town’s permit granting authority or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

**ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM** – A solar energy system in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**SETBACK** – The required minimum horizontal distance from a front, side or rear property line of a parcel within which a freestanding or ground-mounted solar energy system is installed.

**SMALL-SCALE SOLAR** – For purposes of this Chapter, the term “small-scale solar” refers to a solar photovoltaic system or solar thermal system serving primarily the building or buildings on the parcel on which the system is located and limited to those rooftop and building-mounted solar collectors, freestanding and ground-mounted solar collectors, building-integrated photovoltaic systems and solar thermal systems subject, respectively, to the

permitting and approval requirements set forth within subsections 125-47.D, paragraphs 1 through 3, 7 and 8, and the additional requirements set forth within subsections 125-47.E, 125-47.F and 125-47.G.

**SOLAR ACCESS** – Space open to the sun and clear of overhangs or shade, including the orientation of streets and parcels to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**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.

**SOLAR EASEMENT** – An easement recorded pursuant to New York Real Property Law §335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

**SOLAR ENERGY SYSTEM** – 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. Solar energy systems include solar thermal and photovoltaic applications. For the purposes of this Chapter, a solar energy system does not include any system with a solar collector of four square feet or less in surface area.

**SOLAR MODULE SURFACE AREA.** The aggregate square footage of all solar panels part of a solar energy system installation, as calculated based upon the outer dimension length times width of each of the modules.

**SOLAR POWER PLANT** – Energy generation facility, whether a ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity. May also be referred to as **SOLAR PLANT** or **SOLAR FARM**.

**SOLAR PANEL** – A photovoltaic device capable of collecting and directly converting solar energy into electricity. May also be referred to as **SOLAR MODULE**.

**SOLAR STORAGE BATTERY** – A device that stores energy from the sun and makes it available in an electrical form.

**SOLAR THERMAL SYSTEM** – Solar energy system that directly heats air, water or other liquid using sunlight. The heated air, water or other liquid is

used for such purposes as space heating and cooling, domestic hot water and heating pool water.

SUBSTANTIAL – For purposes of this Section, description of an amount of projected surplus energy generation not greater than 10% of projected onsite energy demand.

### C. Applicability

- (1) The requirements of this Section shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Section.
- (2) Solar energy system installations for which a valid building permit has been issued before the effective date of this Section shall not be required to meet the requirements of this Section.
- (3) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the “State Code”) as well as may be required by Public Service Commission regulations.
- (4) All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer and Zoning Enforcement Officer not to present any unreasonable safety risks including, but not limited to, the following factors:
  - (a) Weight load.
  - (b) Wind resistance
  - (c) Ingress or egress in the event of fire or other emergency.

In order to make this assessment the Town Code Enforcement Officer and Zoning Enforcement Officer shall require certification from a New York State licensed professional engineer that the system design conforms with applicable codes, regulations and industry standards and that the system has been properly installed and anchored to prevent flotation, collapse or lateral movement.

- (5) All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent private properties and public roadways.

- (6) Solar collector installations, unless part of a solar power plant, shall be designed at the scale required to generate power for the reasonably projected onsite consumption by owners, lessees, tenants, residents, or other occupants of the parcel on which they are erected, but nothing contained in this provision shall be construed to unduly prohibit collective solar installations or the sale of small amounts of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law Section 66-j or similar state or federal statute.

#### D. Permitting and Approval Requirements

- (1) Rooftop or building-mounted solar energy systems that generate electricity primarily for onsite consumption shall be permitted as an accessory use in all zoning districts pursuant to a solar energy system building permit granted by the Town's Code Enforcement Officer and Zoning Enforcement Officer and subject to the requirements of this Section.

- (2) Rooftop or building-mounted solar energy systems, which are to be located in the Rhinecliff (Rc-O) District shall, in addition to a solar energy system building permit, require site plan approval by the Planning Board.

Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this Section; the visual effect of the proposed solar installation; impact on community character; and any mitigation of impact that may be deemed reasonably undertaken.

- (3) Freestanding or ground-mounted solar energy systems that generate electricity primarily for onsite consumption shall be permitted as an accessory use in all zoning districts, subject to the issuance of a solar energy system building permit and both authorization of a special use permit and grant of site plan approval by the Planning Board. Any system located within either the Water Resources (WR-O) or Flood-Fringe Overlay (FF-O) zoning district shall require one or more additional special use permits from the Planning Board.

Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this Section, the visual effect of the proposed solar installation, including on scenic and historic resources and viewsheds; impact on community character; the effect of the proposed installation on ecologically-sensitive land or water resources; and any related mitigation that may be deemed reasonably undertaken.

As required in its review the Planning Board may define and request the applicant undertake appropriate visual impact analysis.

- (4) Solar power plants shall be permitted as a ground-mounted and/or roof-mounted installation in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Gateway North (Gw-N), Business Park (BP), Office Research Park (ORP), Utility Corridor (UC), Civic 2 (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay) zoning districts subject to issuance of a solar energy system building permit and both authorization of a special use permit and grant of site plan approval by the Planning Board for the proposed solar power plant. If located within either the Water Resource Overlay (WR-O) or Flood-Fringe Overlay (FF-O) zoning district, one or more additional special use permit(s) shall be required.

Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this Section, the compatibility of the proposed solar power plant with adjacent and other nearby land uses; the visual effect of the proposed solar installation, including on scenic and historic resources and viewsheds; impact on community character; the effect of the proposed installation on ecologically-sensitive land or water resources; and any mitigation of impact that may be deemed reasonably undertaken.

In the course of its review of a proposal for development of a solar power plant the Planning Board may require an applicant to submit a view shed analysis meeting the procedures identified within the New York State Department of Environmental Conservation's SEQRA publication entitled "Assessing and Mitigating Environmental Impacts".

- (5) Solar power plants shall be additionally permitted as a rooftop installation in the Community Business South (CB-S) zoning district subject to issuance of a solar energy system building permit and both authorization of a special use permit and grant of site plan approval by the Planning Board.
- (6) Solar power plants, whether ground-mounted and/or roof-mounted installations, shall be prohibited in all other zoning districts.
- (7) Building-Integrated photovoltaic systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing the system approved by the Town's Code Enforcement Officer and Zoning Enforcement Officer.

- (8) Solar thermal systems that generate energy primarily for onsite consumption in the heating of air or water shall be permitted as an accessory use in all zoning districts, subject to the issuance of a solar energy system building permit and grant of site plan approval by the Planning Board.

E. Additional Requirements for Small-Scale Solar Rooftop and Building-Mounted Solar Collectors

- (1) The maximum solar module surface area of a small-scale rooftop or building-mounted solar energy system accessory to the principal use of a parcel, and installed on any rooftop or building on the parcel, shall be two thousand (2,000) square feet for residential use, four thousand (4,000) square feet for farm operations and eight thousand (8,000) square feet for commercial or institutional uses.
- (2) Rooftop installations shall incorporate, when practicable, the following design requirements:
  - (a) Solar panels on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system.
  - (b) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - (c) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - (d) Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.
- (3) Rooftop and building-mounted solar collectors shall not exceed the maximum height limitations for the zoning district within which they are located.
- (4) All such installations shall comply with the New York State Uniform Fire Prevention and Building Code (the "State Code") to ensure firefighter and other emergency responder safety and access.

F. Additional Requirements for Small-Scale Solar Freestanding and Ground-Mounted Solar Collectors

- (1) The maximum solar module surface area of a small-scale freestanding or ground-mounted solar energy system accessory to the principal use of a parcel shall be shall be two thousand (2,000) square feet for residential use, four thousand (4,000) square feet for farm operations and eight thousand (8,000) square feet for commercial or institutional uses.
- (2) In all zoning districts, a parcel must have a minimum area of one (1) acre in order for an accessory freestanding or ground-mounted solar energy system to be permitted.
- (3) The location of an accessory ground-mounted or freestanding solar collector shall comply with the minimum side and rear yard setback requirements for a principal building within the zoning district or twenty (20) feet, whichever distance is greater.
- (4) No accessory ground-mounted or freestanding solar collectors shall be permitted in either a required front yard as set forth for the zoning district within which the solar energy system is proposed or between the principal building on the parcel and the fronting street or roadway, whichever is the greater distance.
- (5) Any structures designed and/or constructed to position, hold and/or otherwise support any accessory ground-mounted or freestanding solar energy system equipment shall not cause the top edge of the solar panel to be greater than twelve (12) feet above ground level when oriented at a maximum vertical tilt.
- (6) Accessory ground-mounted and freestanding solar collectors shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally-appearing blend deciduous and coniferous species, fencing or other features which will harmonize with the character of the property and surrounding area. Proposed screening shall not, however, interfere with the normal operation of the solar collectors.
- (7) Solar energy equipment shall be located in a manner to reasonably minimize shading of property to the north while still providing adequate solar access for collectors.
- (8) Solar energy equipment shall not be sited within any buffer areas such as set forth within Section 125-33 of this Chapter in the matter of "Special setbacks on scenic roads and areas" or any other "greenbelt" that may be established through conservation easement, subdivision plat approval or other legal means.

- (9) The total surface area of a regular geometric form enveloping all ground-mounted and freestanding solar collectors on a residential parcel shall not exceed the area of the ground covered by the principal building on the parcel. Installations on non-residential properties exceeding the area of ground covered by principal building on the parcel may be approved by the Planning Board subject to special use permit pursuant to the requirements and procedure set forth within Article VI of this Chapter.
- (10) The area both beneath and between ground-mounted and freestanding solar collectors, i.e. within the regular geometric form cited above, shall be included in calculating whether the parcel meets the maximum permitted building coverage and lot coverage and minimum open space standards for the zoning district within which the solar energy system is located. The solar energy system shall however not be considered in calculating whether any limitation on either the number or aggregate square footage of accessory structures is exceeded.
- (11) Any special use permit issued for a small-scale solar freestanding or ground-mounted system shall be subject to renewal by the Planning Board three years from its initial issuance and at subsequent intervals of five years to ensure the installation is being maintained in a workmanlike manner with particular emphasis on the maintenance of landscaping and/or other screening required by the Planning Board upon issuance of the special use permit.

#### G. Additional Requirements for Small-Scale Solar Thermal Systems

To the extent applicable to the installation, small-scale accessory ground-mounted and freestanding solar thermal systems shall be subject to the same requirements set forth above for ground-mounted and freestanding solar collectors.

#### H. Safety and Maintenance Requirements for Solar Collector Installations

- (1) All solar collector installations must be performed by a qualified solar installer.
- (2) Prior to issuance of a certificate of compliance by the Code Enforcement Officer and subsequent operation of the solar energy system, a report must be filed with the Code Enforcement Officer by a third party electrical inspection person or agency stating that upon inspection all electrical connections have been found satisfactory.

- (3) Any connection to the public utility grid must be carried out in accordance with the standard interconnection requirements of the appropriate public utility and as may be regulated by the New York State Public Service Commission.
- (4) Solar energy systems shall be maintained in good working order.
- (5) Rooftop and building-mounted solar collectors shall meet New York Uniform Fire Prevention and Building Code (the "State Code") standards.
- (6) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code (the "State Code") when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- (7) All solar energy systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Markings shall occur in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code and the National Electrical Code.
- (8) While not required except in the case of ground-mounted installations associated with solar power plants, if a solar system is no longer in operation the property owner should voluntarily remove from the building or site any collector mounts and associated equipment as soon as practicable, and without requirement for obtaining a demolition permit from the Code Enforcement Officer unless the removal is associated with other work being undertaken for which a demolition permit and/or building permit is required.

#### I. Solar Power Plants

Solar power plants shall be permitted as a principal or co-principal "electric generating" use in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Business Park (BP), Gateway-North (Gw-N), Office Research Park (ORP), Utility Corridor (UC), Civic (CIV), Civic 2 (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay zoning districts subject to both authorization of special use permit and grant of site plan approval by the Planning Board and including but not limited to conformance with the following Supplementary Regulations:

- (1) The maximum solar module surface area of the solar power plant shall be thirty-six thousand (36,000) square feet.

- (2) If established as the principal use of a fee-owned parcel, the parcel on which the solar power plant is sited shall meet either the minimum lot area requirements as set forth for the zoning district within Article IV, Section 125-21, District Schedule of Area and Bulk Regulations, of this Chapter or be a minimum of ten (10) acres, whichever acreage shall be greater.
- (3) If the solar power plant is established as a co-principal use on a leased site within a parcel on which another use, or other uses, are located, the leased site shall be not more than two and one-half (2.5) acres and the overall parcel not less than twelve and one-half (12.5) acres except in the Historic Preservation (HP20) District where the minimum area of the overall parcel shall be 22.5 acres.
- (4) A leased site created for the exclusive purpose of development of a solar power plant shall be exempt from the following requirements:
  - (a) The minimum lot width and frontage requirements otherwise set forth for the zoning district within Article IV, Section 125-21, District Schedule of Area and Bulk Regulations, of this Chapter.
  - (b) The requirement for subdivision plat approval under Town Code Chapter 101, Subdivision of Land, provided a copy of the land agreement is submitted to the Planning Board as part of the Application for Special Use Permit, an accurate survey-based description of the leased parcel is depicted on the site plan, and access to the solar power plant site determined by the Planning Board adequate for routine and emergency purposes is provided either directly from a public roadway or established through easement agreement.
- (5) If the proposed solar power plant is located on a parcel within a residential district and there is an existing dwelling on the parcel, the presence of two principal uses shall in this instance be exempt from the limitation of no more than one principal use on a parcel within a residential district otherwise set forth within Section 125-19, Application of zoning district regulations, subsection F, of this Chapter.
- (6) If the solar power plant is established as a co-principal use on the roof of a agricultural, commercial or institutional structure, the lot on which the solar power plant is sited shall meet either the minimum lot area requirements as set forth for the zoning district within Article IV, Section 125-21, District Schedule of Area and Bulk Regulations for the other principal use, or be a minimum of ten (10) acres, whichever acreage shall be greater.

- (7) The location of the solar power plant shall not encroach on any ecologically-sensitive land or water resource nor remove prime agricultural land (Class I through IV agricultural soils) from potential agricultural production.
- (8) The installation of the solar power plant shall cause neither the cutting, within or at the periphery of a forested or woodland area, of more than 50% of trees of 6 inch or more in diameter at breast height over any contiguous land area of one-fourth acre nor overall site disturbance caused by grading, tree removal or other work on the solar plant site and its access exceeding a total of one acre.
- (9) Solar power plants including ground-mounted installations shall be enclosed by perimeter fencing, with locking access gate, a minimum of six (6) feet and a maximum of eight (8) feet in height and set back at a sufficient distance from all components of the solar installation to restrict unauthorized access or other safety hazard. Any fencing exceeding six (6) feet in height shall in accordance with Section 125-38, subsection A, of this Chapter be subject to requirement for issuance of an additional special use permit by the Planning Board.

The type, material and color of perimeter fencing shall be subject to approval by the Planning Board and shall neither envelope a land area in excess of two and one-half (2.5) acres nor extend beyond the boundaries of the leased parcel. The perimeter fencing shall also be set back a minimum of 100 feet from the front property line and 50 feet from any other property line or such greater minimum distances as may be required for a principal building in the zoning district in which the proposed solar plant is located. In the case of a solar power plant located on a parcel with frontage on a scenic road or within a scenic district, a greater minimum front setback of 200 feet shall be provided.

- (10) Agricultural uses including the raising of organic crops and small animals such as sheep, rabbits and chickens may be carried out within the fenced perimeter of a solar power plant installation.
- (11) The ground within the fenced perimeter of a solar power plant installation shall not be tamped, compressed, or otherwise specially conditioned with herbicides, pesticides or similar other treatments to inhibit the growth of natural vegetation.
- (12) Manufacturer and/or installer's identification and appropriate warning signage and emergency contact information shall be posted at the site and clearly visible.

- (13) Solar power plant buildings and accessory structures shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.
- (14) Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally-appearing blend deciduous and coniferous species, shall be required to [help] screen the solar power plant and accessory structures from scenic roadways, park lands, historic properties and neighboring residences.
- (15) The maximum height of the top edge of any solar panel shall be twelve (12) feet above ground level when the panel is oriented at a maximum vertical tilt.
- (16) Solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent private properties and public roadways.
- (17) There shall be no outdoor lighting associated with the solar power plant except as considered desirable for activation in the case of an emergency and approved by the Planning Board.
- (18) Any on-site power lines shall, to the maximum extent practicable, be underground installations.
- (19) All applications for solar power plants including ground-mounted installations shall be accompanied by a Decommissioning Plan to be implemented upon abandonment, or cessation of activity, or in conjunction with the removal of the facility, which shall be reviewed and approved by the Planning Board and its consultants.

The following requirements shall be met for decommissioning:

- (a) Solar power plants or solar farms including ground-mounted installations which have not been in active and continuous service for a period of one year shall be removed at the owners' or operators' expense within six (6) months of the date of expiration of the one year period.
- (b) All above ground and below ground equipment, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
- (c) The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures and

foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and re-vegetation of restored soil areas with native seed mixes.

- (d) The Planning Board shall, as a condition of approval, require the posting of a removal bond in an amount adequate to provide for the removal of the solar power plant or solar farm's structures and equipment and for restoration of the site. In lieu of a removal bond, the Town Board, in its discretion, may permit the owner and/or operator to enter into a Decommission Agreement with the Town which provides, in relevant part, that if the decommissioning of the site is not completed within six (6) months of the time period specified in subparagraph "19(a)" above, and/or the restoration is not completed within the time period specified in subparagraph "19(c)" above, the Town may, at its own expense, enter the property and remove or provide for the removal of the structures and equipment and/or the restoration of the site, as the case may be, in accordance with the Decommissioning Plan. Such agreement shall provide, in relevant part, the Town may recover all expenses incurred for such activities from the defaulting property owner and/or operator. The cost incurred by the Town shall be assessed against the property and shall become a lien and tax upon said property and shall be added to and assessed as part of the taxes to be levied and assessed thereon and enforced and collected with interest in the same manner as other taxes. If such Decommission Agreement is made, it shall be recorded by the landowner with the land records of Dutchess County and shall be an agreement which binds subsequent owners of the site. A copy showing the stamp of the recorder of deeds shall be given by the landowner to the Town Clerk. This provision shall not preclude the Town from collecting such costs and expenses by any other manner by action in law or in equity. In the event of any such legal proceedings, the owner and/or operator, as the case may be, shall be liable for all legal expenses, costs and disbursements in connection with said litigation, as awarded by a court of competent jurisdiction.
  - (e) The provisions specified in subparagraph "19(d)" above, shall not be interpreted to limit in any manner the authority of the Town and its Code Enforcement Officer and Zoning Enforcement Officer as set forth in Article X, Section 125-119, Enforcement; penalties for offenses, of this Chapter.
- (20) Any special use permit issued for a solar power plant shall be subject to renewal by the Planning Board three years from its initial issuance and at subsequent intervals of five years to ensure the installation is being

maintained in a workmanlike manner with particular emphasis on the maintenance of landscaping, fencing and/or other screening required by the Planning Board upon issuance of the special use permit.

### **Subsection C**

Article III, Use Regulations, Section 125-20, District Schedule of Use Regulations, is hereby amended as follows:

- A. By adding to the District Schedule of Use Regulations under the first column entitled "Use" a new subheading "Solar Energy Systems".
- B. By setting forth under the above subheading the following:
  - (1) "Small-scale rooftop or building mounted solar energy system" and designating this use as a permitted accessory use (P) in all zoning districts except for the Rhinecliff Overlay (Rc-O) District.
  - (2) Further designating "Small-scale accessory rooftop or building-mounted solar energy system" as an accessory use subject to site plan approval (\*) by the Planning Board in the Rhinecliff Overlay (Rc-O) District.
  - (3) "Small-scale free-standing or ground-mounted solar energy system" and designating this use as a permitted accessory use subject to special use permit (S) and site plan approval (\*) by the Planning Board in all zoning districts.
  - (4) Further designating "Small-scale free-standing or ground-mounted solar energy system" as a prohibited use (-) within the Rhinecliff Overlay (Rc-O) District
  - (5) "Building-integrated photovoltaic (PIBC) system" and designating this use as a permitted use (P) in all zoning districts.
  - (6) "Small-scale solar thermal system" and designating this use as a permitted accessory use in all zoning districts.
  - (7) "Ground-mounted solar power plant" and designating this use as a principal use subject to special use permit (S) and site plan approval (\*) by the Planning Board in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Business Park (BP), Gateway-North (Gw-N), Office Research Park (ORP), Utility Corridor (UC), Civic (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay) zoning districts.

- (8) Further designating “Ground-mounted solar power plant” as a prohibited use (-) in all other zoning districts.
- (9) “Rooftop-mounted solar power plant” and designating this use as a principal use subject to special use permit (S) and site plan approval (\*) by the Planning Board in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Community Business-South (CB-S), Business Park (BP), Gateway-North (Gw-N), Office Research Park (ORP), Utility Corridor (UC), Civic (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay) zoning districts.
- (10) Further designating “Rooftop-mounted solar power plant” as a prohibited use (-) in all other zoning districts.

#### **Subsection D**

Article IV, Area and Bulk Regulations, Section 125-24, Height exceptions, is hereby amended as follows:

- A. By deleting the word and punctuation “windmills,” within subsection A.
- B. By deleting the last three sentences within subsection B, reading “The Town of Rhinebeck encourages the use of non-fossil-fuel energy systems such as solar collectors and wind generators. Special height and other regulations apply to solar collectors and wind generators installed on a structure. Please see Article V, Section 125-47, of this Chapter for these regulations.”

#### **Subsection E**

Article XIII, Definitions, Section 125-135, Terms used throughout chapter, is hereby amended as follows:

- A. By deleting the words “and wind” in the second sentence of the definition of ACCESSORY STRUCTURE.
- B. By adding the below definitions in proper alphabetical order:

CO-PRINCIPAL USE – One of two or more principal uses, as may be authorized to occur on a single parcel within a non-residential district or elsewhere on the basis of a specific exception within this Chapter such as stated in Section 125-47.I in the case of solar power plants or solar farms.

PARCEL – See “lot”.

### **Section 3. Supersession**

This local law is hereby adopted pursuant to the provisions of §10 of the New York State Municipal Home Rule Law and §10 of the New York State Statute of Local Governments. It is the intent of the Town Board to supersede any provisions of the New York State Town Law to the extent that they may be inconsistent with the provisions of this Local Law.

### **Section 4. Severability**

If any section or part of this local law is declared invalid or unconstitutional by a court of competent jurisdiction, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this local law.

### **Section 5. Effective Date**

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.