

Town of Chester Zoning Code Article IX. Solar Energy

§ 98-40 Solar energy systems.

A. ~~A.~~ Applicability.

- (1) The requirements of this chapter shall apply to all solar energy systems and equipment installed and modified after the effective date of this chapter. Except as provided herein in § 98-40C(2) below, no solar energy system equipment shall be installed, operated or modified except in compliance with this § 98-40.
- (2) A solar energy system for which a valid building permit has been issued or, if no building permit was required, for which installation was commenced and diligently pursued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter. However, any modification of such solar system must comply with the requirements of this chapter.
- (3) This § 98-40 shall not apply to a solar energy system of four (4) square feet or less in size.
- (4) When a solar energy system is limited by this § 98-40 to servicing only the building(s) and structure(s) on the lot upon which the system is located and building(s) and structure(s) on adjacent lots, such limitation shall not be construed to prohibit a net-metering billing arrangement in accordance with law.

B. General permit, inspection and operating requirements.

- (1) Application for and issuance of a building permit shall be required prior to installation of a solar energy system.
- (2) A solar energy system shall be designed and installed in accordance with all applicable laws, codes and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code and other State Code provisions.
- (3) All solar energy systems installations must be performed by a qualified solar installer.
- (4) Prior to operation, electrical connections must be inspected by the Town Building Inspector and by a qualified electrical inspector acceptable to the

Town. Any connection to the public utility grid must meet all applicable Town, state, federal and public utility rules and regulations.

(5) All solar energy systems shall be maintained in good working order.

C. Roof-mounted, building-integrated photovoltaic and solar thermal energy systems.

(1) A roof-mounted, building-integrated photovoltaic and solar thermal energy system is permitted as an accessory use and structure in all zoning districts, ~~without site plan approval~~ with a building permit, but and subject to the following requirements.

- a. ~~(a)~~ A roof-mounted, building-integrated photovoltaic and solar thermal energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located.
- b. ~~(b)~~ The applicant shall file a New York State unified solar permit (USP) application and pay all fees in order to obtain a building permit.
- c. ~~(c)~~ A roof-mounted system may be mounted on any legal principal or accessory building or structure.
- d. ~~(d)~~ Roof-mounted solar collectors are subject to the height limitations governing the principal or accessory building or structure to which it is mounted.
- e. ~~(e)~~ Solar panels and all accessory equipment for the building-mounted solar energy system shall not extend beyond the edge of the roof nor exceed a height of six inches above the roofline of a residential structure or 36 inches above the the highest point of the roof structure of a non-residential structure upon which the panels and equipment are located. The panels shall be set at the same angle as the roof. When feasible, as determined by the Code Enforcement Officer, solar collectors facing the front yard must be mounted at the same angle as the roof's surface, with a maximum distance between the roof and the highest edge of the panels.
- f. ~~(f)~~ Solar panels shall not be permitted to be attached to any building or structure which is located on the National Register of Historic Places. A solar thermal panel shall not be placed in the front yard and shall not be placed within the required rear yard or required side yard setback applicable to the accessory structures within the zoning district.

(2) The Building Inspector may refer an application to the Planning Board on recommendation.

D. Small-scale solar energy systems.

(1) A ground-mounted, small-scale solar energy system is a permitted accessory use and structure in all zoning districts on lot with a minimum lot area of at least one acre, subject to site plan approval by the Planning Board and subject to the following requirements.

(a) A ground-mounted small-scale solar energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located.

(b) A ground-mounted small-scale solar energy system shall not be located in the front yard closer to the front property line than the principal structure on the lot, unless the applicant applies to, and demonstrates to the satisfaction of, the Planning Board that the front yard proposed location is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.

(c) The solar energy system and related equipment shall not be located within the minimum required front, side and rear yards for the district in which the system is situated.

(d) Solar collectors and related equipment shall be substantially screened from view from adjoining properties and public roadways.

(e) The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.

(f) The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations. The maximum permitted lot coverage shall be the same as required for the principal permitted structure.

(2) The Planning Board shall have discretion to hold a public hearing on a particular site plan application or waive the public hearing requirement.

(3) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter. Land shall be restored with ~~top soil~~ topsoil and grass seed where ground cover has been removed.

E. Large-scale solar energy systems.

- (1) A ground-mounted large-scale solar energy system is a permitted accessory use and structure in all zoning districts on lots with a minimum lot area of at least four acres, subject to site plan approval by the Planning Board and subject to the following requirements.
 - (a) A ground-mounted large-scale solar energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located and may, in addition, serve building(s) and structure(s) on adjacent lots.
 - (b) A ground-mounted large-scale solar energy system shall not be located in the front yard closer to the front property line than the principal structure on the lot, unless the applicant applies to, and demonstrates to the satisfaction of, the Planning Board that the front yard is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.
 - (c) The solar energy system and related equipment shall have a minimum front setback of 100 feet, a minimum side and rear setback of 75 feet in a residential zone and 50 feet in a non-residential zone and in no case shall not be located within the minimum required front, side and rear yards for the district in which the system is situated.
 - (d) Support structures shall be of a color such as dark green, brown or black so as to blend in with the surrounding area.
 - (d) Solar collectors and related equipment shall be substantially screened from view from adjoining properties and public roadways.
 - (e) The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.
 - (f) The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations. The maximum permitted lot coverage shall be the same as required for the principal permitted structure.
 - (g) All such systems shall be securely fenced.
 - (h) An emergency power shut off location shall be identified on the site plan and coordinated with the fire department.
- (2) The Planning Board shall hold a public hearing on all site plan applications for a large-scale solar energy system.

- (3) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter. Land shall be restored with topsoil and grass seed where ground cover has been removed.
- (4) The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town attorney and Planning Board and in the amount sufficient to pay for the cost and expenses of removal of the solar energy system and related equipment and structures and restoration of the site. The amount is subject to the approval of the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

F. Utility-scale solar energy systems.

(1) A utility-scale solar energy system is permitted as a special permit use in the AR-3 Agricultural-Residential, I-Industrial, IP-Industrial Park and OP - Office Park districts, subject to site plan approval by the Planning Board and subject to the following special conditions and safeguards.

(a) The following dimensional requirements shall apply to a utility-scale solar energy system:

Standard	Requirement						
Lot width	250 feet						
Front yard setback	<table border="0" style="width: 100%;"> <tr> <td style="padding-left: 40px;">Town highway</td> <td>100 feet</td> </tr> <tr> <td style="padding-left: 40px;">County highway</td> <td>125 feet</td> </tr> <tr> <td style="padding-left: 40px;">State highway</td> <td>150 feet</td> </tr> </table>	Town highway	100 feet	County highway	125 feet	State highway	150 feet
Town highway	100 feet						
County highway	125 feet						
State highway	150 feet						

Standard	Requirement
Side yard setback (each)	75 feet
Rear yard setback	75 feet
<u>Maximum</u> Building height	35 feet
Maximum height of solar collectors	12 feet
Maximum height of fencing	8 feet
*	If the lot or lots of the proposed solar energy system front(s) on two or more streets, then each of those yards shall be deemed the front yard. The required side and rear yard setbacks shall be measured to the visible structural component of the solar energy system nearest the side lot line or rear lot line, respectively.

* If the lot or lots of the proposed solar energy system front(s) on two or more streets, then each of those yards shall be deemed the front yard. The required side and rear yard setbacks shall be measured to the visible structural component of the solar energy system nearest the side lot line or rear lot line, respectively.

(b) The total area of the solar energy system shall not exceed 20 acres, but in no case shall it exceed 650% of the total lot area.

~~(c) The solar energy system and related equipment shall not be located within the minimum required front, side and rear yards for the district in which the system is situated.~~

(cd) The entire solar energy system shall be enclosed by perimeter fencing at a height of at least seven feet in order to restrict unauthorized access. There shall be a six-inch gap at the bottom of the fencing to allow small wildlife access to and from the site.

(de) Solar energy systems shall be situated on sites consisting primarily (i.e., at least 75%) of open fields, brush, small trees (i.e., with trunk diameter of two inches or less measured at four feet above finished grade), or pasture, but not situated on primarily wooded sites. The Planning Board may allow some of the existing trees within the area of the solar energy system to be removed to accommodate the solar energy system. In order to prevent tree clearing in anticipation of a solar energy system installation, this 75% requirement shall

apply during the time period commencing two years prior to application for a solar energy system.

- (ef) Appropriate screening shall be provided, as determined by the Planning Board based upon the specific site characteristics, to screen the solar energy system and fencing from residential properties, public roads, private roads and private rights-of-way to the maximum extent practicable. The applicant shall provide a visual analysis to the Planning Board using line-of-sight profiles from public viewing locations determined by the Planning Board.
- (fg) All on-site power lines shall be installed underground unless the applicant demonstrates to the satisfaction of the Planning Board that such underground installation is not practicable given the particular characteristics of the site.
- (gh) Buildings and structures associated with the solar energy system shall, to the maximum extent practicable, use materials, colors such dark green, brown and black and textures that will blend the facility into the existing environment.
- (hi) Solar panels and equipment shall be designed and sited so as to not reflect glare onto other properties, public road or private roads or rights-of-way, and shall not interfere with traffic or create a hazard.
- (ij) Driveways serving the site shall have safe sight distance and lawful appropriate access for emergency vehicles and equipment. Access to the site shall be reviewed by relevant emergency service providers.
- (jk) The identification of the manufacturer, owner and 24-hour emergency contact and installer, and on appropriate warning signs, shall be posted at the site, be clearly visible and weather-resistant.
- (kl) The solar energy system and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric service. Materials used for the markings shall be weather resistant. The markings shall be placed adjacent to the main service disconnect in a location clearly visible from where the power lever is located. If any of the standards in this subsection are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the State Code), these standards shall be deemed to be guidelines only, and the standards of the State Code shall apply.
- (lm) A utility-scale solar energy system situated within the Ridge Preservation Overlay District shall be subject to heightened review by the Planning Board. In addition, the Planning Board is authorized to apply more restrictive

requirements to achieve the objectives of the Ridge Preservation Overlay District.

~~(n) The Planning Board shall have the discretion to reduce the permitted lot coverage based upon unique environmental constraints found at a proposed site (e.g., topographic and/or geologic conditions or other environmental constraints).~~

~~(o) Solar arrays proposed within the LB-SL Zoning District shall be subject to architectural review by the Planning Board, including roof-mounted solar panels in the Sugar Loaf hamlet.~~

(2) Application requirements. In addition to the other requirements in this chapter applicable to site plan and special permit applications, the applicant shall submit to the Planning Board the following:

(a) If the property of the proposed solar energy system is leased, the written legal consent between all parties, specifying the use(s) of the property for the duration of the project, including easements and other agreements.

(b) Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and inverters.

(c) A property operation and maintenance plan, which plan shall describe continuing equipment maintenance, property upkeep (e.g., mowing and trimming) and useful life and replacement schedule for key equipment. The plan shall specify that herbicides shall not be used.

(d) A decommissioning plan, in accordance with § 98-40F(3).

(3) Decommissioning and removal.

(a) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within six months thereafter.

(b) Decommissioning and removal plan. To ensure the proper removal of utility-scale solar energy system, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning

costs, including any salvage value. Compliance with this plan shall be made as a condition of the issuance of a special use permit under this section. The decommissioning plan must specify that after the utility-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to the construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation. To secure such removal, the applicant shall provide and maintain a form of financial surety. Such financial surety shall be provided either through a security deposit, escrow account, bond, or in a manner otherwise acceptable to the Town and shall be in an amount to be established by the Town Board upon recommendation from the Town Engineer. The bond amount will be equal to no less than 125% of the decommissioning and reclamation cost for the entire system. The full amount of the financial security shall remain in full force and effect throughout the term of the approval and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original approval. The Town may periodically review the financial security to determine if any adjustments in the bond amount are required. Removal of utility-scale solar energy system must be completed in accordance with the decommissioning plan. If the utility-scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property owner to cover these costs incurred by the municipality.

(c) Decommissioning and removal security.

[1] The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town attorney and Planning Board and in the amount sufficient to pay for the cost and expenses of removal of the solar energy system and related equipment and structures and restoration of the site. The amount is subject to the approval of the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

[2] The amount of security shall be sufficient, during the first five years of operation, to cover: the costs to deconstruct and dispose of all equipment, structures and materials related to the solar energy system; costs to restore the site; and all fees, costs and expenses incurred by the Town to administer and enforce the decommissioning process. Such amount shall be reevaluated every five years thereafter by the Town Engineer and, if necessary, adjusted to reflect prevailing costs and expenses.

[3] If the amount of the security does not fully cover such fees, costs and expenses ("costs") or if the Town cannot recover adequate proceeds of the security, then the owner or operator of the solar energy system and the property owner shall be jointly and severally, and corporately and personally, liable for the costs not recovered. In addition, the Town may assess such costs against the property, which assessment shall constitute a lien on the property, and which amount may be collected in the same manner as real property taxes.

- (4) Equipment and parts maintenance. Any damaged or unused equipment and parts shall be removed from the premises 30 calendar days or kept in a secured, designated storage area. Maintenance equipment, spare parts and petroleum products shall be kept in a secure, designated storage area.
- (5) Ownership changes. If owner or operator of the solar energy system changes or the owner of the property changes, the special permit shall remain in effect, and all requirements of this § 98-40 and all conditions and requirements of the special permit shall be binding upon each succeeding owner and operator. However, a change in owner or operator shall not affect the decommissioning security, although a new owner may substitute other security in accordance with § 98-40F(3). A new owner or operator of the solar energy system shall immediately notify the Town Code Enforcement Officer of such changes in ownership or operator.
- (6) Modifications: Any and all modifications, additions or deletions to the solar energy system, whether structural or not, shall be subject to prior site plan review and approval by the Planning Board, except routine repairs and maintenance shall not be subject to Planning Board review.