

# Chapter 108

## Solar Energy Systems

[HISTORY: Adopted by the Town Board of the Town of Wilton 10-5-2017. Amendments noted where applicable.]

### GENERAL REFERENCES

Zoning — See Ch. 129.

### **§108-1 Authority**

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town law of New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

### **§108-2 Statement of Purpose**

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- A. To take advantage of a safe, abundant, renewable, and non-polluting energy resource;
- B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- C. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
- D. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
- E. To create synergy between solar and other goals of the community pursuant to Town’s Comprehensive Plan with conservation of open space land, continuation of quality land development, creating a walkable healthy community, and establishing a well-balanced community.

## §108-3 Definitions

**ACTIVE AGRICULTURAL LAND:** Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – within the past five years.

**BATTERY ENERGY STORAGE SYSTEM:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time (not to include a stand-alone 12-volt car battery or an electric motor vehicle).

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**FACILITY AREA:** The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

**FARM OPERATION:** Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law § 301[11]).

**GLARE:** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

**KILOWATT (kW):** A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

**MINERAL SOIL GROUPS 1-4 (MSG 1-4):** Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

**NAMEPLATE CAPACITY:** A solar energy system’s maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

**NATIVE PERENNIAL VEGETATION:** Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the NYS Department of Environmental Conservation.

**ON-FARM SOLAR ENERGY SYSTEM:** A Solar Energy System located on a farm which is a “farm operation” (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

**POLLINATOR:** Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

**SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of electricity.

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- (1) Roof-Mounted Solar Energy Systems.
- (2) Building-Integrated Solar Energy Systems.
- (3) Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC.

OR

Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to 4,000 square feet.

- (4) On-Farm Solar Energy Systems

B. Tier 2 Solar Energy Systems include the following:

(1) Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months.

OR

Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 8 acres in size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems include the following:

(1) Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC.

OR

Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.

D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity.

### §108-4 Applicability

- A. The requirements of this Local Law shall apply to all Tier 1 and Tier 2 Solar Energy Systems ~~permitted, installed, or modified in Town~~ after the effective date of this Local Law, excluding general maintenance and repair. **(Revised 9/6/2023)**
- B. The requirements of this Local Law shall apply to all Tier 3 and Tier 4 Solar Energy Systems that have not received a special use permit prior to the effective date of this Local Law. **(Revised 9/6/2023)**
- C. Solar Energy Systems ~~that received special use permit approval, or were~~ constructed, or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law. **(Revised 8/9/2023) (Revised 9/6/2023)**
- D. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5% of the original Facility Area (exclusive of moving any fencing) or increase of nameplate capacity more than 10% shall be subject to this Local Law.

## §108-5 General Requirements

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Prior to the issuance of the building permit or final approval by the Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer.
- C. Local land use boards ~~are encouraged to shall~~ condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time. **(Revised 9/6/2023)**
- D. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
- E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town Code.
- F. For Solar Energy Systems subject to site plan review, the Town shall impose, and may update as appropriate, a schedule of fees (see Town Code Chapter 63) to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.
- G. No Tier 3 or Tier 4 Solar Energy Systems shall hereafter be permitted in zones R-1, R-2, R-3 and RB-1. **(Revised 9/6/2023)**

## §108-6 Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

- A. Roof-Mounted Solar Energy Systems
  - (1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements exceptions may be approved by the Code Enforcement Official for good cause shown:
    - (a) Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface 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 24 inches above the flat surface of the roof, whichever is higher.

(2) Glare. All Solar Panels shall have anti-reflective coating(s).

(3) Height. All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 2.

B. Building-Integrated Solar Energy Systems

(1) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

C. Ground-Mounted Solar Energy Systems

(1) Glare. All Solar Panels shall have anti-reflective coating(s).

(2) Setbacks. Tier 1 Solar Energy Systems shall have a minimum setback of 20-feet [from property line](#). All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts. Solar energy system shall not cast a shadow on neighboring parcel. **(Revised 9/6/2023)**

(3) Height. Tier 1 Solar Energy Systems shall comply with the height limitations in Appendix 2.

(4) Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

(5) Lot coverage. Tier 1 Solar Energy System panel(s) and equipment area is limited to 25% of lot coverage.

(6) Screening and Visibility.

(a) All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties and from road frontage with dense evergreens to the extent reasonably practicable.

(b) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property.

## **§108-7 Permitting Requirements for Tier 2 Solar Energy Systems**

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts except R-1 and RM as accessory structures and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section 6(C), in addition to (or in some cases amended by) the following requirements:

A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:

- (1) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- (2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- (3) Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
- (4) Zoning district designation for the parcel(s) of land comprising the Facility Area.
- (5) Property lines and physical features, including roads, for the project site.
- (6) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- (7) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- (8) A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
- (9) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.

B. Standards. Tier 2 Systems shall adhere to the following standards.

- (1) Lot coverage. Tier 2 Solar Energy Systems facility area are limited to 50% of lot coverage.
- (2) Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
- (3) Environmental Resources
  - (a) Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent ~~possible~~ reasonably practical. (Revised 9/6/2023)
  - (b) To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.

(c) Owner shall use integrated pest management practices to refrain from pesticide use (including herbicides) for long-term operation and site maintenance. **(Revised 9/6/2023)**

(4) Battery Energy Storage Systems, ~~less than or equal to 600 kWh,~~ are not permitted with Tier 2 Solar Energy Systems. **(Revised 8/9/2023) (Revised 9/6/2023)**

### §108-8 Permitting Requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit from the Town Board within the C-1, C-2, C-3, CR-1, I-1, ~~R-2, R-3, RB-1~~ zoning districts, developed Town lands, and lands with existing agricultural use, and subject to site plan application reviewed by Planning Board and requirements set forth in this Section and applicable Town Code. **(Revised 8/9/2023)**

A. Applications of special use permit for the installation of Tier 3 Solar Energy System shall be:

(1) Reviewed by the Zoning Enforcement Officer and Planning Department for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review. ~~Requirements required for site plan review can be requested to be submitted.~~ The Town Board may review the materials submitted to the Planning Board as part of the site plan review process. **(Revised 9/6/2023)**

(2) Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under law by the Town.

(3) Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.

(4) Upon closing of the public hearing, the Town Board shall take action on the application within 62-days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and applicant. Applications dormant for 1-year period shall be subject to additional review and fees.

B. Application & Site Plan Requirements: To be reviewed by Planning Board, after special use permit approval by Town Board.

Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:

(1) Submission of a completed Planning Board application form. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.

(2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.



- (3) Nameplate Capacity of the Solar Energy System (as expressed in MW).
- (4) Zoning district designation for the parcel(s) of land comprising the Facility Area.
- (5) Property lines and physical features, including roads, for the project site. Aerial imagery of parcel and adjacent lands.
- (6) Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
- (7) Adjacent land uses on contiguous parcels within a 500-foot distance of the site boundary.
- (8) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- (9) Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board. Documents to be submitted to MS4 stormwater management officer for review and approval.
- (10) A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices.
- (11) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- (12) A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- (13) A Decommissioning Plan [see Appendix 3] signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
  - (a) An estimate of the anticipated operational life of the system.
  - (b) Identification of the party responsible for decommissioning.
  - (c) The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - (d) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - (e) The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration prepared by a qualified professional engineer.
  - (f) The provision of a decommissioning security which shall adhere to the following requirements:

- [1] The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town ~~attorneycounsel~~ and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal and approval by Town. **(Revised 9/6/2023)**
- The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 3 Solar Energy System and shall be revisited every 5 years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System.
- [2] In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, ~~which shall be entitled to maintain an action thereon~~. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed and approved by the Town. **(Revised 9/6/2023)**

C. Site Plan Standards: The Planning Board shall review that all the following standards and conditions have been satisfied:

- (1) Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- (2) Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction. Submission of plans to emergency services for review is required before final approval.
- (3) Signage.
  - (a) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
  - (b) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (4) Glare. All Solar Panels shall have anti-reflective coating(s).

- (5) Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. Motion activated light for maintenance areas shall be utilized.
- (6) Multiple lots. At the discretion of the Planning Board, where a Tier 3 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to [lot size, setback] requirements.
- (7) Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the minimum lot size requirements of 10-acres.
- (8) Setbacks. The Tier 3 Solar Energy Systems shall meet the parcel line setback requirements in Appendix 1, Table 1.2. Fencing, collection lines, access roads and landscaping may occur within the setback.
- (9) Height. The Tier 3 Solar Energy Systems shall comply with the height limitations of 20-feet.
- (a) This height requirement can be waived by the Planning Board if the panels are being raised to accommodate continued or new agricultural purposes with rotating panels for clearance.
- (10) Lot coverage. Tier 3 Solar Energy Systems facility area are limited to 50% lot coverage.
- (11) Fencing Requirements. All mechanical equipment shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- (12) Screening and Visibility.
- (a) ~~The applicant shall conduct and submit a visual~~ visual graphic assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, ~~shall~~ may be required ~~to be submitted by~~ from the applicant. **(Revised 9/6/2023)**
- (b) ~~The applicant shall submit~~ submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment ~~shall~~ will be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. **(Revised 9/6/2023)**
- [1] The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of evergreen trees, at least 6 feet high at time of planting, plus supplemental shrubs at the reasonable discretion of the Planning Board, all

planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy a portion of the required landscaped screening. A list of ~~suitable~~acceptable evergreen tree and shrub species ~~should~~may be provided by the Town. **(Revised 9/6/2023)**

- [2] The Planning Board may ~~elect to~~ waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels. **(Revised 9/6/2023)**

(13) Environmental Resources

- (a) Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent ~~possible~~reasonably practical. **(Revised 9/6/2023)**
- (b) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Planning Board determination that these lands are being used for actual agricultural uses.
- (c) The owner shall use integrated pest management practices to refrain from pesticide use (including herbicides) for long-term operation and site maintenance. **(Revised 9/6/2023)**

(14) Agricultural Resources. Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:

- (a) Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the parcel area of MSG 1-4 within the Facility Area.
- [1] A Tier 3 Solar Energy System facility area may exceed the 50% MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance Coverage beyond the 50% threshold will only be allowed based on the Planning Board's determination that the land is being used for a Farm Operation and where the Town Board determines that~~proves to continue a the~~ farm use will continue. **(Revised 9/6/2023)**

(15) Battery Energy Storage Systems are not permitted for Tier 3 Solar Energy Systems.

- D. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

## §108-9 Permitting Requirements for Tier 4 Solar Energy Systems

All Tier 4 Solar Energy Systems are permitted through the issuance of a special use permit within the [C-3, I-1] zoning districts, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section [§108-8](#), in addition to (or in some cases amended by) the following requirements: **(Revised 9/6/2023)**

A. Applications for Tier 4 Solar Energy Systems shall:

- (1) Be reviewed by the Zoning Enforcement Officer and Planning Department for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

B. Pre-Application Meeting.

At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Town Board to ensure all parties have clear expectations regarding any Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Town Board with completed site plan application. Submission and review of the application shall not be delayed based on the failure of the Town Board to respond in a timely manner to a properly filed meeting request.

At the pre-application meeting, the Applicant must provide (1) a brief description of the proposed facility and its environmental setting, (2) a map of the proposed facility showing project components, (3) the proposed facility's anticipated impacts, (4) a designated contact person with telephone number, email address, and mailing address from whom information will be available going-forward basis, and (5) an anticipated application submission date.

C. Community Engagement Plan.

Applications for a Tier 4 Solar Energy System shall include a Community Engagement Plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation [in the permitting process](#). Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Town Board prior to the submission of a formal application. **(Revised 9/6/2023)**

#### D. Special Use Permit Standards

(1) Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in Appendix 1, Table 1.3. Fencing, collection lines, access roads and landscaping may occur within the setback.

(2) Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to the following requirements:

(a) Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the Active Agricultural Lands within the Facility Area.

[1] A Tier 4 Solar Energy System facility area may exceed the 50% Active Agricultural Land threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation.

~~Exceedance~~Coverage beyond the 50% threshold will only be allowed based on the Town Board's determination that the land is being used for a Farm Operation and ~~where the Town Board determines that the~~ ~~proves to~~ ~~continue as~~ farming operation will continue. (Revised 9/6/2023)

(3) Battery Energy Storage Systems are not permitted ~~for~~with Tier 4 Solar Energy Systems. (Revised 9/6/2023)

### §108-10 Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 or Tier 4 Solar Energy System is located in an ambulance district, the local ~~ambulance corp~~emergency medical services provider. (Revised 9/6/2023)

C. If a Battery Energy Storage System is included as part of the Solar Energy System, ~~they~~it shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations. (Revised 9/6/2023)

D. Where deemed necessary by the Planning Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Marshall of the Town.

## §108-11 Permit Timeframe and Abandonment

- A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 24 months, ~~provided that a building permit is issued for construction OR construction is commenced~~. In the event construction is not completed in accordance with the final site plan – as may have been amended and approved – as required by the Planning Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the ~~Town~~Planning Board. If the owner and/or operator fails to perform substantial construction within 48 months from mylar signature date, the approvals shall expire.
- (Revised 9/6/2023)**
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion with 30 days notice to land owner and public hearing, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan. If insufficient funds are available in bond and/or security, a tax levee shall be placed on the parcel(s) for the remaining balance. **(Revised 9/6/2023)**

## §108-12 Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town Code Section 129-251. **(Revised 9/6/2023)**

## §108-13 Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

## § 108-14 Solar energy systems public benefit fees.

Pursuant to § 10(1)(ii)(d)(3) of the Municipal Home Rule Law, the Town of Wilton hereby amends Town Code § 108 to require, after a finding of need, that a parkland public benefit fee be paid to the Town as part of site plan approval for commercial solar energy systems 200 kilowatts or more. Solar energy systems constitute a unique land use that impacts the Town's ability to retain its suburban aesthetic and occupies large swaths of green space while converting open, forested, or agricultural lands with potential for more suitable development.

- A. The Planning Board as part of site plan review process for any large-scale solar energy system, defined as a system with an output of 200 kilowatts or more, will consider the land use impacts as part of the SEQRA review process with loss of open space and aesthetic resources. The impact to be mitigated with a public benefit fee and shall be based upon the developed land as described in Subsection D of this section. Any fraction of an acre will be subject to the applicable fee (pro-rata) OR (for a full acre). (Revised 9/6/2023)
- B. The public benefit fee for acquiring open space, park, playground or other recreational purposes and improvements will be required once the Planning Board has made final approval of the project and before signing of mylars and issuing of any Town permit.
- C. All funds collected pursuant to this section shall be deposited into a reserve fund to be used by the Town exclusively for park or other recreational purposes, including the acquisition of property.
- D. Public benefit fee for development in forested lands is required at a one-time rate of \$5,000 per acre of developed land or \$2,500 per acre of developed land if ~~quality~~ land dedication is accepted by the Town Board. "Developed land" ~~to~~ includes all structures, equipment and infrastructure for each application bound within fenced area of solar project. (Revised 9/6/2023)
- E. The public benefit fee for development within existing pasture farmland or, grassland areas is at a one-time rate of \$500 per acre of developed land to include all structures, equipment and infrastructure for each application bound within fenced area of solar project.
- F. The public benefit fee for development within commercial paved areas is at a one-time rate of \$100 per acre of developed land to include all structures, equipment, and infrastructure for each application of gross panel and equipment area.
- G. In the event that a Project for which such funds have been contributed fails to proceed and no tree harvesting occurs, the project owner or authorized agent may seek ~~the~~ Town ~~board~~ approval for refund of such funds which approval shall not be unreasonably denied. (Revised 9/6/2023)



- H. The public benefit fee will be required for any large-scale solar energy system project application submitted to the Town beyond ~~XX, 2023~~ the effective date of this local law. **(Revised 8/9/2023)**

## Appendix 1: Setback Requirements

The following table provides parcel line setback requirements for Ground-Mounted Solar Energy Systems. Fencing, and access roads shall be a minimum of 15’ off property line. Landscaping may occur within the setback. **(Revised 9/6/2023)**

**Table 1.1: Parcel Line Setback Requirements for Tier 2 Ground Mounted Solar Energy Systems (Revised 8/9/2023) (Revised 9/6/2023)**

<b>Tier 2: (50% Lot Coverage, ≤ 1 MW or Facility area ≤ 8-acres)</b>				
<b>Zoning District</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>	<b>Residential District or Non-Participating Occupied Residence</b>
Residential; R-1, RM	—	—	—	—
Residential; R-2, R-3	—	<del>15’</del> 25’	<del>15’</del> 25’	Screening Required
Commercial; C-1, C-2, C-3	—	15’	15’	Screening Required
Industrial; I-1	—	15’	15’	Screening Required
<del>Mixed Use;</del> CR-1, RB-1	—	15’	15’	Screening Required
Hamlet; H-1	—	—	—	—

**Key:**

—: Not Allowed

**Table 1.2: Parcel Line and Other Setback Requirements for Tier 3 Ground Mounted Solar Energy Systems (Revised 8/9/2023) (Revised 9/6/2023)**

<b>Tier 3: (50% Lot Coverage, ≤ 5 MW or Facility Area ≤ 40-acres)</b>				
<b>Zoning District</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>	<b>Residential District or Non-Participating Occupied Residence</b>
Residential; R-1, <del>R-2, R-3,</del> RM, <del>RB-1</del>	—	—	—	—
<del>Residential; R-2, R-3</del>	<del>200’</del>	<del>200’</del>	<del>200’</del>	<del>500’</del>
Commercial; C-1, C-2, C-3	100’	50’	50’	<del>250’</del> 500’
Industrial; I-1	100’	50’	50’	<del>250’</del> 500’
<del>Mixed Use;</del> CR-1, <del>RB-1</del>	100’	50’	50’	<del>250’</del> 500’
Hamlet; H-1	—	—	—	—

**Key:**

—: Not Allowed

Table 1.3: Parcel Line and Other Setback Requirements for Tier 4 Ground Mounted Solar Energy Systems (Revised 8/9/2023) (Revised 9/6/2023)

Tier 4: (50% Lot Coverage, > 5 MW or Facility Area > 40-acres)				
Zoning District	Front	Side	Rear	Residential District or Non-Participating Occupied Residence
Residential; R-1, R-2, R-3, RM, <del>RB-1</del>	—	—	—	—
Commercial; C-1, C-2	—	—	—	—
Commercial; C-3	100'	50'	50'	250'
Industrial; I-1	100'	50'	50'	250'
<del>Mixed Use; CR-1, RB-1</del>	—	—	—	—
Hamlet; H-1	—	—	—	—

Key:

—: Not Allowed

**Appendix 2: Height Requirements Limits (Revised 9/6/2023)**

The following table displays maximum height requirements limits for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each Solar Panel. (Revised 9/6/2023)

*Table 2.1: Height Requirements Limits (Revised 9/6/2023)*

Zoning District	Tier 1	Tier 1	Tier 2	Tier 3 & 4
	Roof-Mounted	Ground-Mounted	Ground-Mounted	Ground-Mounted
Residential; R-1, RM	2' above roof	10'	—	—
Residential; R-2, R-3, <u>RB-1</u>	2' above roof	10'	10'	<del>20'</del> —
Commercial; C-1, C-2, C-3	4' above roof	15'	15'	20'
Industrial; I-1	4' above roof	15'	15'	20'
<u>Mixed Use</u> ; CR-1, <del>RB-1</del>	4' above roof	15'	15'	20'
Hamlet; H-1	2' above roof	—	—	—

**Key:**

—: Not Allowed

### Appendix 3: Example Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by Town, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

System decommissioning shall be required as a result of any of the following conditions:

1. The land lease – if any – ends, unless the project owner has acquired the land.
2. The Solar Energy System ceases to generate electricity on a continuous basis for [12] months.
3. The Solar Energy System is damaged and will not be repaired or replaced by [Solar Developer Owner].

If any of the above conditions are met, and upon notification or instruction by the Town, [Solar Developer Name] shall implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities, shall be completed within [12] months.

The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town zoning law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of [Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands].
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, and federal waste disposal regulations.
3. All materials removed must be recycled at an approved recycling facility. Proof of recycling shall be presented to the Town.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain and approved by Planning Board.

An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:

1. Time required to decommission and remove the system and any ancillary structures.
2. Time required to repair any damage caused to the property by the installation and removal of the system.

The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be \$[XXX] as of the date and time this application is filed. A decommissioning security has been executed in the amount of [115]% of the cost of system decommissioning, removal, and site restoration, excluding any salvage value.

This cost estimate and decommissioning surety will be revisited every [5] years and updated as needed to account for inflation or other cost changes.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

**Facility Owner Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_