

Addition of:

D. Solar Energy Systems to 130-23 Accessory buildings and uses.

Solar Energy Systems to 130-62 Special Conditions and safeguards for certain uses

SOLAR ENERGY SYSTEMS

1. Authority

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

ARTICLE III Supplemental Use and Dimensional Regulations

130-23 Accessory buildings and uses.

D. Solar Energy Systems

(1) Statement of Purpose

(a) This Zoning for Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Wheatland, including:

[1] Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;

(i) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and

(ii) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

(2) Definitions

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

LARGE-SCALE or UTILITY- SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

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

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

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

(3) Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair, abandonment and Building-Integrated Photovoltaic Systems.

(4) Solar as an Accessory Use or Structure

(a) Roof-Mounted Solar Energy Systems.

[1] Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

[2] Height. Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

[3] Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

(i) Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

(ii) Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review under the local zoning code or other land use regulations.

(b) Ground-Mounted Solar Energy Systems.

[1] Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures in AR-2, R-24, R-16, R-12, SCB, HC, CIP and LI districts.

[2] Height and Setback. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.

[3] Lot Coverage. Systems are limited to the lot coverage of the district in which it is kept. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage.

[4] All such Systems in districts shall be installed in the side or rear yards.

[5] Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be permitted as an accessory structure unless part of a new site plan application.

(c) Approval Standards for Large-Scale Solar Systems

Large-Scale Solar Energy Systems are permitted through the issuance of a special exception use permit within AR-2, HC, CIP and LI districts, subject to the requirements set forth in this section and Section 163-62.

(d) No system may be installed in any required green or open spaces.

(e) Preservation of foliage and woodlots. Woodlots, trees or other foliage may not be removed to install a ground mounted solar energy system.

(f) Ground cover will be maintained and mowed.

(g) Topsoil or subsoil shall not be removed from the site. Sufficient topsoil and soil must remain on site to restore the property when decommissioning. Soil may be used for berming and shielding purposes. Topsoil and subsoil may be brought onto the site, the site plan shall detail proposed site grading.

(h) The Planning Board may require utility and electric facilities be placed underground.

(5) Abandonment and Decommissioning

Solar Energy Systems are considered abandoned after one hundred and eighty (180) days without electrical energy generation and must be removed from the property. For large scale solar facilities, applications for extensions are reviewed by the Planning Board of the Town of Wheatland for a period of up to one hundred and eighty (180) additional days provided such application is made before the expiration of the initial one hundred and eighty-day period. Abandoned systems must be decommissioned in accordance with the decommissioning plan if one was required, otherwise upon order of the Code Enforcement Officer for roof and ground mounted systems. If the 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 to cover these costs to the municipality.

(6) Enforcement

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Wheatland.

ARTICLE VII Special Exception Uses

130-62 Special Conditions and safeguards for certain uses

Solar Energy Systems

- (1) Approval Standards for Large-Scale Solar Systems as a Special Exception Use
 - (a) Large-Scale Solar Energy Systems are permitted through the issuance of a special exception use permit within AR-2, HC, CIP and LI districts, subject to the requirements set forth in this Section, including site plan approval. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Planning Board of the Town of Wheatland for its review and action, which can include approval, approval on conditions, and denial.
 - (b) Special Exception Use Permit Application Requirements. For a special exception use permit application, the site plan application is to be used as supplemented by the following provisions.
 - (c) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - (d) Construction documents appropriate to the size and type of facility showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required. The Planning Board and Code Enforcement Officer may require and specify what documents or additional documents are required.
 - (e) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - (f) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - (g) Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-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 infrastructure and the remediation of soil and vegetation shall be conducted to

return the parcel to its state prior to 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. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-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 to cover costs incurred by the municipality in excess of a decommissioning bond.

- (h) Decommissioning Bond. The applicant shall be required to provide the Town a Decommissioning Bond in the estimated amount to remove the facility and restore the site.

(2) Special Exception Use Permit Standards.

- (a) Height and Setback. Large-Scale Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
- (b) Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of ten (10) acres.
- (c) Lot Coverage. An accessory Large-Scale Solar Energy System that is ground-mounted shall not exceed 25% of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

The Planning Board may permit a Large-Scale Solar Energy Facility to be a primary use on a property and where it is the primary use set the lot coverage percentage more than 25% lot coverage based upon the individual proposal. The Planning Board may consider such items as setbacks, greenspace, storm water drainage, appurtenant facilities and any site special items when reviewing the proposal.

- (d) Preservation of foliage and woodlots. Woodlots, and trees may not be removed to install a ground mounted solar energy system. Ground cover will be maintained and mowed regularly. Where practical, pollinator habitats shall be incorporated into ground cover.
- (e) Greenspace. A green and open space plan shall be submitted. The area where a large-scale solar energy system is installed shall not be considered as green or open space.
- (f) All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.

- (g) The type of fencing shall be determined by the Planning Board of the Town of Wheatland. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- (h) Any application under this Section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgment of the Planning Board of the Town of Wheatland, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board of the Town of Wheatland may waive the requirement for site plan review.
- (i) The Planning Board of the Town of Wheatland may impose conditions on its approval of any special use permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

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.