

# TOWN OF CHESTER

Introductory Local Law No. \_\_\_\_\_ of 2017

## **A Local Law Amending Articles I, II, V, VIII and IX of Chapter 98 “Zoning” of the Town Code to implement various recommendations of the 2015 Comprehensive Plan.**

Be it enacted by the Town Board of the Town of Chester as follows:

### **Section I. Legislative Intent and Findings of Fact.**

#### **A. Background**

This action was prompted by the Town Board’s adoption of the 2015 Comprehensive Plan for the Town of Chester on May 27, 2015. The Town Board of the Town of Chester, Orange County, NY has determined the adoption of certain Zoning Text and Zoning Map amendments as recommended in the 2015 Comprehensive Plan would enhance the land use policies of the Town and have a positive impact on the environment. The recommended revisions to the Chapter 98 “Zoning” would clarify the intent of the Town’s land use regulations by defining certain land uses, ensure land use consistent with the recommendations of the adopted Comprehensive Plan through certain zoning text and map amendments, ensure compatibility of certain non-residential land uses within residential zoning districts, and protect visual resources while promoting new sustainable energy production through the regulation of the placement of solar energy systems.

#### **B. Legislative Intent.**

This local law is intended to protect the public health, safety and welfare of the community by implementing certain recommendations of the Town of Chester’s 2015 Comprehensive Plan. It is further intended to protect property values, protect the physical appearance of the community, preserve the scenic and natural beauty, and ensure that certain non-residential uses are situated within those areas of the Town with the infrastructure to support them. Consistent with the Comprehensive Plan recommendation to encourage alternative renewable energy resources, this local law for the first time addresses the need to regulate the growing solar energy industry. This local law will permit and regulate solar energy systems and equipment and the provision of adequate sunlight necessary therefor; to balance the potential impacts on neighbors when solar collectors are installed near their property, while preserving the right of property owners to install solar energy systems in accordance with applicable laws and regulations; and to recognize solar energy as a priority for current and long-term energy sustainability. This local law strengthens the special permit requirements for religious institutions and schools to balance the potential impacts on neighbors and local roadways, while ensuring ample opportunities to situate these institutions within the Town.

In accordance with the legislative intent of this Local Law, the current provisions of Chapter 98 “Zoning” of the Code of the Town of Chester are hereby amended with those items with ~~strikethrough~~ deleted and those underlined added thereto as provided for in the attached Schedules.

### **Section II. Amend Chapter 98, Article I, Section (§) 98-2 of the Town Code**

Chapter 98, titled “Zoning,” Article I, §98-2, titled “Definitions and word usage,” of Chapter 98 is hereby amended by adding definitions as appears in *Schedule “A”* attached hereto.

### **Section III.**

Chapter 98, Article II, Section 98-4 titled “Zoning Map” is amended to implement Zoning Map Amendments as illustrated in the Town of Chester 2015 Comprehensive Plan along with the rezoning of several other properties as recommended by the Zoning Review Committee. These amendments are further defined in *Schedule “B”* attached hereto.

### **Section IV.**

Chapter 98, titled “Zoning,” Article III, §98-9, titled “Exceptions to district regulations” is amended to read as provided in *Schedule “C”* attached hereto.

### **Section V.**

Chapter 98, titled “Zoning,” Article V, §98-21, titled “Signs” is amended to read as provided in *Schedule “D”* attached hereto.

### **Section VI.**

Chapter 98, titled “Zoning,” Article V, §98-29, titled “Special requirements for specific uses” is amended to read as provided in *Schedule “E”* attached hereto.

### **Section VII.**

Chapter 98, titled “Zoning,” Article V, §98-30, titled “Site Plan Approval” is amended to read as provided in *Schedule “F”* attached hereto.

### **Section VIII.**

Chapter 98, titled “Zoning,” Article VIII, §98-39, titled “Schedule of Use and Area Requirements” is amended to read as provided in *Schedule “G”* attached hereto.

### **Section IX.**

Chapter 98, titled “Zoning,” of the Code of the Town of Chester is amended by adding Article IX §98-40, titled “Solar energy systems” to read as provided in *Schedule “H”* attached hereto.

### **Section X. Severability**

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such invalidity shall not be deemed to affect the remaining portions thereof.

### **Section XI. Effective Date**

This Local Law shall be effective as provided by law, upon filing and acceptance by the New York State Secretary of State.

## *"SCHEDULE A"*

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM – A solar energy system that integrates photovoltaic modules and components into the building structure, such as the roof, façade or windows, and which does not alter the relief of the roof.

CULTURAL FACILITY/CENTER – An establishment for display, performance, or enjoyment of heritage, history or the arts. This use includes but is not limited to museums, libraries and arts performance venues by a public or private entity.

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.

LARGE-SCALE SOLAR ENERGY SYSTEM – A solar energy system that is capable of producing over 12 kilowatts (kw) per hour and which serves only building (s) and structure (s) on the lot upon which the system is located and may, in addition, serve building (s) and structure (s) on adjacent lots.

NET-METERING – A billing arrangement that allows a solar energy system user to receive credit for excess electricity generated and deliver such excess electricity to the utility grid.

QUALIFIED SOLAR INSTALLER – A person who possesses skills and knowledge related to the construction and operation of solar energy systems, equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible solar installers maintained by the New York Energy Research and Development Authority (NYSERDA), or 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 purpose of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar energy installers if the Town Building Inspector, 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, the personal protective equipment and job planning necessary to safely perform the installation. 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 energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

RELIGIOUS INSTITUTION – A church, synagogue, temple, mosque, or other facility that is used for worship by persons of similar beliefs and that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

SCHOOL, PRIVATE – An elementary and/or secondary school facility, as established by a person or persons, firm or corporation other than the public school authorities, giving instruction in the 10 common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene and physical training, registered and/or certified under regulations of the Commissioner of the New York State Department of Education or chartered by the Regents of the University of the State of New York.

SCHOOL, ART, DANCING, MUSIC, THEATER - An institution operated for instruction of art, dancing, music, or theater only.

SCHOOL, PRIVATE - An institution not "public" which offers to its students formal education in arts, sciences or humanities, and is registered and/or certified under regulations of the Commissioner of the New York State Department of Education or chartered by the Board of Regents of the University of the State of New York.

SCHOOL, PUBLIC - An institution under the jurisdiction of a school district and legally constituted by the State of New York to offer free formal education to residents of the district.

SCHOOL, VOCATIONAL – An institution conducting a regularly scheduled curriculum of special study of a trade, commercial or vocational nature with all instruction and curriculum occurring entirely within an enclosed structure.

SLAUGHTERHOUSE – A USDA regulated facility where the primary activity is the killing, butchering, or packaging of animals for human consumption.

SMALL-SCALE SOLAR ENERGY SYSTEM – A solar energy system that does not produce more than 12 kilowatts (kw) per hour of energy or a solar thermal system, either of which serves only the building (s) or structure (s) on the lot upon which the system is located.

SOLAR ACCESS – Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system.

SOLAR COLLECTOR – A solar photovoltaic cell, module, panel or array or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM – Solar collectors, module controls, energy storage devices, heat pumps, heat exchangers and other materials, hardware and equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed including the solar access necessary for the system to operate as designed and any areas of land that are disturbed or cleared to maintain that solar access, and any accessory or appurtenant structures. Solar energy systems may include solar panel, solar thermal, building integrated photovoltaic and concentrated solar energy systems. For the purpose of this law, a solar energy system does not include a solar energy system of four square feet or less.

SOLAR PANEL – A device for the direct conversion of solar energy into electricity.

SOLAR THERMAL SYSTEM – A solar energy system that directly heats water or other liquid using sunlight for such purposes as space heating and cooling, domestic hot water and pool water.

UTILITY SCALE SOLAR ENERGY SYSTEM – A solar energy system that produces energy primarily for the purpose of off-site sale and consumption.

*SCHEDULE "B"*

**Article II**

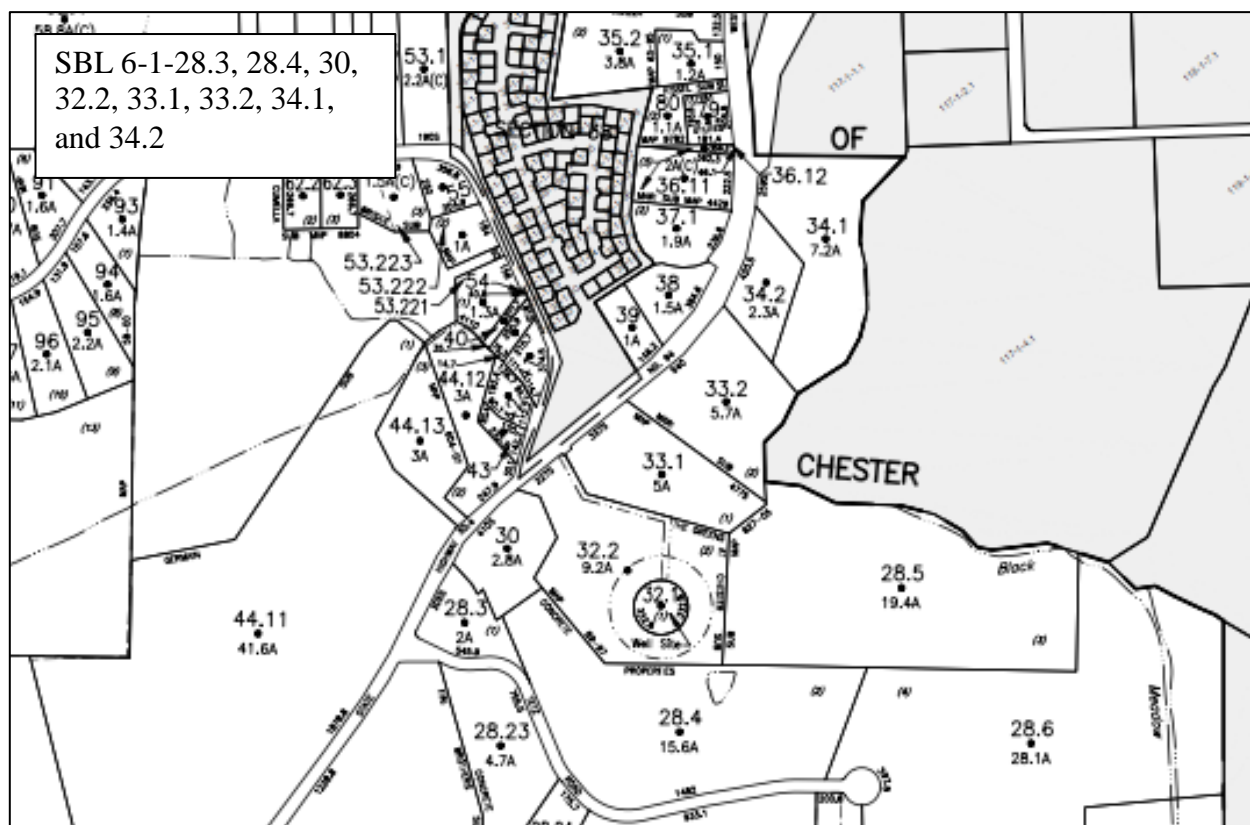
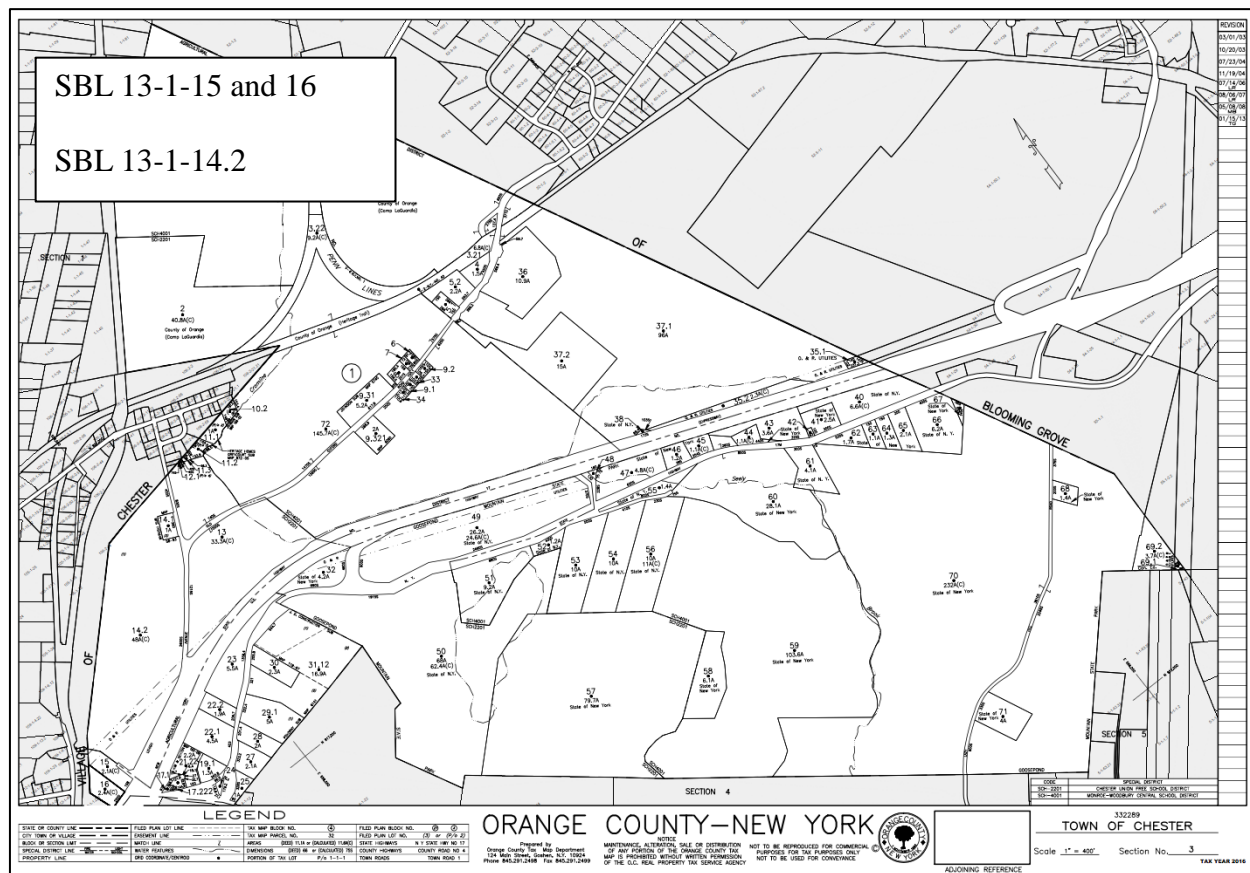
**Zoning Map**

**§98-4. Zoning Map Amendments**

The Official Zoning Map of the Town of Chester, dated June 24, 2009, shall be amended to provide therein as follows:

The Zoning Map of the Town of Chester is hereby amended to rezone the following parcels:

- Town of Chester Tax Map Parcel SBL 3-1-15 and 3-1-16 from OP – Office Park Zoning District to GC – General Commercial.
- Town of Chester Tax Map Parcel SBL 3-1-14.2 from OP – Office Park Zoning District to AI-Agricultural Industrial.
- Town of Chester Tax Map Parcel SBL 6-1-28.3, 28.4, 30, 32.2, 33.1, 33.2, 34.1, and 34.2 from OP – Office Park Zoning District to I - Industrial.
- Town of Chester Tax Map Parcel SBL 13-3-4 from the SR-1 Suburban Residential Zoning District to LB/SL Local Business Sugar Loaf Zoning District:
- Town of Chester Tax Map Parcel SBL 13-1-136 and 13-1-137 from LB/SL Local Business Sugar Loaf Zoning District to SR-2 Suburban Residential Zoning District.
- Town of Chester Tax Map Parcel SBL 15-1-27.4 from AR-3 Agricultural Residential and SR-2 Suburban Residential to AR-3 Agricultural Residential.





## SCHEDULE C

### **§98-9 Exceptions to district regulations.**

K. Existing undersized non-residential lots of record. The use of an existing undersized non-residential lot of record, when such lot is owned individually and separate from any adjoining tract at the time of the enactment of this subsection, may be used for a permitted or special permit use in the zoning district in which it is situated subject to Site Plan review by the Planning Board.

## SCHEDULE D

### **§98-21 Signs.**

**H. Billboards** (allowed in Zones GC, OP, LB, I, IP and AI).

(1) General requirements.

- (a) Only those existing billboards, installed prior to the effective date of the amendment to this chapter, are permitted in the Town of Chester. Such billboards must be maintained, repaired and upgraded in accordance with the standards set forth herein.
- (b) Any double-faced billboard having back-to-back surface display areas, no part of which is more than two feet apart, is considered to be a single billboard, except for preexisting signs.
- (c) Billboard structures having more than one surface display area which are tandem (side by-side) or stacked (one above the other) are considered two billboards and are prohibited.
- (d) Sphere, spheroid, or similarly shaped billboard (e.g., a ball), shall be prohibited.
- (e) The installation or use of a billboard is permitted only to the extent authorized by, and subject to, the provisions of the Town Zoning Law as amended from time to time.

(2) Spacing. These provisions are applicable to replacement of existing billboards. All distances as provided for in this section shall be measured radially from where the surface display area is visible.

- (a) No billboard may be located within 75 feet of a property line adjoining a street or within 30 feet of other property lines.
- (b) No billboards along NYS Route 17 may be located within 1,000 feet of another billboard (unless preexisting).
- (c) The Planning Board may authorize the relocation of a pre-existing billboard upon a finding that such relocation would not adversely affect the Town and that such relocation would not increase the number of billboards otherwise allowed pursuant to the provisions of Section 98-21 H (2) (b) above.



## SCHEDULE E

Chapter 98, titled “Zoning,” Article V, §98-29, titled “Special requirements for specific uses” is amended to read as provided below.

### **§98-29 Special requirements for specific uses.**

#### **F. Religious Institution. ~~Church or similar place of worship and related uses.~~**

- (1) Buildings shall be set back a minimum of 50 feet from any property line.
- (2) All structural as well as nonstructural uses of the property shall be indicated and identified on the plan. Nonstructural uses, including but not limited to picnic areas, play areas, gathering areas, etc., are required to be shown on the Site Plan.
- (3) Outdoor public address systems are prohibited.
- (4) Access and circulation.
  - (a) Whenever practicable, primary ingress and egress to and from the lot shall be via the highest service level adjacent road, such as a County or State Highway.
  - (b) Access drive(s) shall provide for safe and adequate ingress and egress to and from the site complying with sight distance requirements for municipal road intersections.
  - (c) Safe and adequate internal vehicular site circulation patterns shall be provided for cars and/or buses if applicable. If a dropoff area is provided near the building, one-way traffic patterns must be provided for the dropoff area. Internal circulation patterns in the parking lot(s) and around the building shall minimize pedestrian/vehicular conflict.
  - (d) Traffic flows shall be designed to ensure the least possible impact on neighboring properties and residential streets.
  - (e) Truck deliveries shall not occur anytime between 8:00 PM and 7:00 AM.
  - (f) Off-street parking shall be provided at a minimum of 1 space per 5 seats, or 1 space per 100 square feet where fixed seating is not provided.
- (5) Religious uses should be situated on sites with access to public water & sewer infrastructure.
- (6) The principal building and accessory uses must be on a contiguous site.
- (7) Accessory uses shall be subordinate in area, extent, and purpose to the principal use.
- (8) All exterior lighting shall be shielded and/or directed away from residential areas.
- (9) Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise or odor impacts to adjacent residential areas.

(10) Outdoor activity areas shall be oriented away or sufficiently buffered from adjacent residential areas to prevent disturbance of the peaceful use of such areas by residents.

O. Schools, Private and Public. ~~Private schools, colleges and other educational institutions.~~

<b>Number of Students</b>	<b>Acres</b>
0 to 25	2
26 to 50	3
51 to 100	4
Each 1 to 100 additional	1 additional

- (1) Elementary schools (K-3): minimum lot area shall be as outlined per student below.
- (2) Elementary schools (K-6): minimum of four acres for up to 100 students; one additional acre is required for each additional increment of 100 students or fraction thereof.
- (3) Secondary schools (7-12) and colleges: minimum of 11 acres for up to 100 students; one additional acre is required for each additional increment of 100 students or fraction thereof.
- (4) Access and circulation.
  - (a) All schools shall provide access drive(s) providing for safe and adequate ingress and egress to and from the site complying with sight distance requirements for municipal road intersections. However, if the Planning Board, in its discretion, shall find that special circumstances in the area of a given site warrant, greater sight distance than the minimum may be required.
  - (b) Safe and adequate internal vehicular site circulation patterns shall be provided for cars and/or buses if applicable. If a dropoff area is provided near the building, one-way traffic patterns must be provided for the dropoff area. Internal circulation patterns in the parking lot(s) and around the building shall minimize pedestrian/vehicular conflict.
- (5) Outdoor play areas and/or fields for various sports shall be provided sufficient to meet the needs of the student body, with playing areas to be located on slopes less than 5%. Said play areas shall be located so as to avoid creating a nuisance to adjoining property owners, and shall incorporate physical separation, screening and other measures for this purpose. No outdoor lighting shall be provided for playing fields without the express approval of the Planning Board upon a finding that such lighting will not create a nuisance nor a harmful visual impact that is inconsistent with the surrounding neighborhood.
- (6) All schools shall comply with all applicable requirements of the NYS Uniform Fire Prevention and Building Code.

- (7) Schools should be situated on sites that have access to public water and sewer infrastructure.

## *SCHEDULE F*

Chapter 98, titled “Zoning,” Article V, §98-30, titled “Site Plan Approval” is amended as follows:

### §98-30 Site Plan Approval.

E. Procedure. Application for authorization of a use requiring site plan approval shall be made directly to the Planning Board, in the manner required by the Planning Board with the required fees and escrow payments payable to the Town of Chester.

#### (1) Process.

- (a) Sketch plan or presubmission conference. Upon submission of an escrow fee or application fee, a presubmission conference or work session may be scheduled by the Planning Board Chairman with Board consultants and/or members to discuss a proposed project. The purpose of the meeting is to encourage an applicant to consult early and informally with the Planning Board regarding his proposed concept in order to save time and money and to make the most of opportunities for desirable development.
- (b) At the initial meeting with the Planning Board, the Planning Board may determine if the three-step process of a sketch, preliminary and final plan shall be required and if a public hearing will be required. Such decisions may be delayed to a later meeting.
- (c) Application may be made for a sketch or preliminary plan subject to the requirements described below. The applicant and/or his representatives may contact the Planning Board office for advice prior to determining which type of submittal may be most appropriate considering the proposed use or change of use. Before preparing a concept layout, the applicant may discuss the general requirements as to design of streets, reservation of land, drainage, sewerage, water supply, fire protection and other improvements, as well as procedural matters, at a work session.
- (d) Notice to Adjoining Landowners. The Planning Board shall have the discretion to require the applicant to notify adjoining property owners of the application at the beginning of the Site Plan review process to identify potential areas of concern early in the review process before final plans are developed. Such notice shall be in a form prescribed by the Planning Board Secretary and delivered by the U.S. Postal Service via Certified Mail Return Receipt.

**SCHEDULE G**  
98 Attachment 2

<i>Town of Chester AR-3 – Agricultural Residential District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ol style="list-style-type: none"> <li>1. Bed &amp; breakfast per §98-29.</li> <li>2. Contractor's equipment storage as an accessory use to a residential use in conformance with §98-22A.</li> <li>3. Clustered developments with approval per §98-25 and with lot areas as required in said section and set forth in this table. Site Plan approval shall be required by the Planning Board only for multipurpose or community buildings, recreation or other facilities or areas as determined by the Planning Board.</li> </ol>	<ol style="list-style-type: none"> <li>1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport.</li> <li>2. Keeping of not more than one horse per acre for each acre above two acres, for personal use, on a minimum three acre lot.</li> <li>3. Keeping of not more than a total of five dogs or cats over six months of age or two or more domestic animals or 25 fowl or the keeping and breeding of fish.</li> <li>4. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> <li>5. (Reserved)</li> </ol>
<ol style="list-style-type: none"> <li>4. Veterinarian's office and/or dog kennel accessory to a residence per §98-29.</li> <li><del>5. Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del></li> <li><del>5</del> 6. Cemeteries.</li> <li><del>6</del> 7. Bed &amp; breakfast inn as per §98-29 within one mile of the LB-SL District.</li> </ol>	<ol style="list-style-type: none"> <li>6. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> </ol>
<ol style="list-style-type: none"> <li><del>7</del> 8. Storage of non-farm materials, products and equipment in barns and outbuildings already in existence prior to May 2003. Changes in storage of materials shall require notice of the Building Inspector and Planning Board review, if required by the Building Inspector.</li> </ol>	<ol style="list-style-type: none"> <li>7. Barns, silos and related buildings, provided they conform to yard requirements for principal buildings and uses.</li> <li>8. Accessory produce storage structures and packing warehouses.</li> <li>9. Seasonal roadside stand no larger than 300 square feet, for the sale of agricultural products grown principally on the premises.</li> <li>10. Non-seasonal stand no larger than 1,000 square feet in area for the sale of agricultural produce, set back at least 50 feet from the road.</li> <li>11. Outdoor storage of farm equipment, provided it is not located in the front yard.</li> <li>12. Dormitories or residence for employees living on the premises.</li> </ol>
<del>9. Schools:</del> <del>a. Private schools, colleges and other educational institutions as per §98-29.</del> <del>b. Day care centers and nursery schools as per §98-29.</del>	<del>13. Same as 6 above.</del>
<del>10. Annual membership clubs providing outdoor recreational activity per §98-29.</del>  <del>8. Small-scale solar energy systems per §98-40 D.</del> <del>9. Large-scale solar energy systems per §98-40 E.</del> <del>10. Utility scale solar energy systems per §98-40 F.</del> <ol style="list-style-type: none"> <li>11. Public utility structures and rights-of-way per §98-29.</li> <li>12. Excavation and removal of soil, subject to per §§98-12 and</li> </ol>	

NYSDEC mining permit may be required.	
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<i>Town of Chester SR-1 – Suburban Residential District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
1. Bed & breakfast per §98-29.	1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport. 1.1. Keeping of not more than one horse per acre for each acre above two acres, for personal use, on a minimum three acre lot. 2. Keeping of not more than a total of five dogs or cats over six months of age or two or more domestic animals or 10 fowl. 3. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.
2. Clustered developments with approval per §98-25 and with lot areas as required in said section and set forth in this table. Site Plan approval shall be required by the Planning Board only for multipurpose or community buildings, recreation or other facilities or areas as determined by the Planning Board.	4. Same as 1 and 2 above. 5. Same as 3 above if the lot is one acre or larger.
3. Veterinarian's office and/or dog kennel accessory to a residence per §98-29.	6. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.
<del>4. Religious Institution as per §98-29 F. Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del>	<del>7. Accessory uses limited to parish houses, day care centers, nursery schools, meeting halls and required parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</del>
5. Cemeteries. 6. Bed & breakfast inn as per §98-29 within one mile of the LB-SL District. <del>7. Schools Private schools, colleges and other educational institutions as per §98-29 O.</del> 8. Annual membership clubs providing outdoor recreational activity per §98-29. 9.q Public utility structures and rights-of-way per §98-29. 10. Excavation and removal of soil, subject to per §§98-12 and NYSDEC mining permit may be required.	8. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.
11. <u>Small-scale solar energy system per §98-40 D.</u>	

*Town of Chester SR-2 – Suburban Residential District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<p>1. Conversion of single-family home to a two-family dwelling per §98-29.</p> <p>2. Bed &amp; breakfast per §98-29.</p> <p>3. Clustered developments with approval per §98-25 and with lot areas as required in said section and set forth in this table. Site Plan approval shall be required by the Planning Board only for multipurpose or community buildings, recreation or other facilities or areas as determined by the Planning Board.</p>	<p>1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport.</p> <p>2. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</p> <p>3. Keeping of not more than a total of five dogs or cats over six months of age or two or more domestic animals.</p>
4. Two-family dwellings not to exceed a total of two dwellings per lot.	
5. Planned adult communities as per §98-29.	
6. Senior housing as per §98-29.	
7. Senior assisted-care facility as per §98-29.	
8. Annual membership clubs providing outdoor recreational activity per §98-29.	<p>4. <u>Accessory uses limited to parish houses, day care centers, nursery schools, meeting halls and required parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u></p> <p>5. <u>4- Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u></p>
9. Bed & breakfast inn as per §98-29.	
10. Religious Institution as per §98-29 F. <del>Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del>	
11. Cemeteries.	
12. <del>Schools Private schools, colleges and other educational institutions as per §98-29 O.</del>	
13. Public utility structures and rights-of-way per §98-29.	
14. Excavation and removal of soil, subject to per §§98-12 and NYSDEC mining permit may be required.	
15. Day-care centers and nursery schools per §98-29.	
16. Market-rate senior housing.	
17. <u>Small-scale solar energy system per §98-40 D and subject to architectural review pursuant to §98-28.</u>	

*Town of Chester SR-6 - Suburban Residential District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<p>1. Conversion of single-family home to a two-family dwelling per §98-29.</p> <p>2. Bed &amp; breakfast per §98-29.</p> <p>3. Clustering of one and two-family homes subject to §98-20 and multiple residences per §98-20.</p> <p>4. Multiple residential and townhouses.</p> <p>5. Planned communities as per §98-29.</p> <p>6. Senior housing as per §98-29.</p> <p>7. Senior-assisted care facility as per §98-29.</p> <p><del>8. Religious Institution as per §98-29 F. Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del></p>	<p>1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport.</p> <p>2. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</p> <p>3. Keeping of not more than a total of five dogs or cats over six months of age or two or more domestic animals.</p>
<p>9. Cemeteries.</p> <p>10. <u>Schools</u> <del>Private schools, colleges and other educational institutions</del> as per §98-29 O.</p> <p>11. Day-care centers and nursery schools per §98-29.</p> <p>12. Public utility structures and rights-of-way per §98-29.</p> <p>13. Excavation and removal of soil, subject to per §§98-12 and NYSDEC mining permit may be required.</p> <p>14. Market-rate senior housing</p>	<p><del>4. Accessory uses limited to parish houses, day care centers, nursery schools, meeting halls and required parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</del></p> <p><u>4. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u></p>
<p><u>15. Small-scale solar energy system per §98-40 D.</u></p>	



<i>Town of Chester RO – Residence Office District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ol style="list-style-type: none"> <li>Office buildings for businesses and professional uses.</li> <li>Restaurants offering full wait services as part of a conversion of an existing residence to a full restaurant use.</li> <li>Bed &amp; breakfast per §98-29.</li> <li>Bed &amp; breakfast inn as per §98-29.</li> <li><u>Small-scale solar energy systems per §98-40 D.</u></li> </ol>	<p><u>For single-family residences.</u></p> <ol style="list-style-type: none"> <li>Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport.</li> <li>Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> </ol> <p><u>For other than single-family residences.</u></p> <ol style="list-style-type: none"> <li>Keeping of not more than a total of five dogs or cats over six months of age or two or more domestic animals.</li> <li>Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> </ol>

<i>Town of Chester LB-SL – Local Business Sugar Loaf District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ol style="list-style-type: none"> <li>Bed &amp; breakfast per §98-29 and Bed &amp; breakfast inn as per §98-29.</li> <li>Two-family dwelling, not to exceed a total of two dwelling units per lot.</li> <li>Day-care centers and nursery schools per §98-29.</li> <li>Office buildings for business and professional use.</li> <li><u>School – Art, Dancing, Theater and/or Music. <del>Schools of Special Instruction</del></u></li> <li>Restaurants.</li> <li>Retail stores.</li> <li>Banks.</li> <li>Personal service stores.</li> <li>Service establishments furnishing services other than of personal nature, but excluding the services and repair of motor vehicles and excluding gas stations.</li> <li>Manufacturing, assembling, converting, altering, finishing, cleaning, or other processing of products by artisans or craft people for retail sale on premises, per §98-29.</li> <li>Auction houses and antique shops.</li> <li>Mixed use.</li> <li>Theaters.</li> <li>Public utility structures and rights-of-way per §98-29.</li> <li><u>Small-scale solar energy system per §98-40 D and subject to architectural review pursuant to §98-28 of the Town Code.</u></li> </ol>	<ol style="list-style-type: none"> <li>Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport for a permitted single-family dwelling.</li> <li>Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> <li>Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> <li>Keeping of not more than a total of five dogs or cats over six months or age or two or more domestic animals.</li> </ol>



*Town of Chester LB – Local Business District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
1. Day-care centers and nursery schools per §98-29.	4. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.
2. Religious Institution as per §98-29 F. <del>Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del>	5. <u>Accessory uses limited to parish houses, day care centers, nursery schools, meeting halls and required parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u>
3. Funeral home. 4. Office buildings for business and professional use. 5. <u>School – Art, Dancing and/or Music. Schools of Special Instruction</u> 6. Restaurants, fast-food restaurants, and drive-thru facilities. 7. Retail stores. 8. Banks. 9. Personal service stores. 10. Car washing facilities. 11. Service establishments furnishing services other than of personal nature. 12. Passenger transportation depot or station. 13. Outdoor recreation facilities on parcels of one acre or greater. 14. Commercial indoor recreation, health and fitness facilities. 15. Gas stations with or without accessory convenience retail store or car wash; see §98-29. 16. Automotive repair shop; §98-29. 17. Regulated adult uses per §98-29. 18. Public utility structures and rights-of-way per §98-29. 19. <u>Small-scale solar energy systems per §98-40 D.</u> 20. <u>Large-scale solar energy systems per §98-40 E.</u> 21. <u>Utility scale solar energy systems per §98-40 F.</u>	6. <u>Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u>

<i>Town of Chester GC – General Commercial District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<p>1. Schools:</p> <p>a. Private schools, colleges and other educational institutions as per §98-29.</p> <p>b. Day-care centers and nursery schools as per §98-29.</p>	<p>4. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</p>
<p>2. Religious Institution as per §98-29 F. <del>Church or similar places of worship, parish houses, seminaries, convents, dormitories and related uses per §98-29.</del></p>	<p>5. <u>Accessory uses limited to parish houses, day care centers, nursery schools, meeting halls and required parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u></p>
<p>3. Funeral home.</p> <p>4. Office buildings for business and professional use.</p> <p>5. Meeting room or function hall for membership clubs conducted exclusively as a service to its membership and other nonprofit organizations. Outdoor public address systems are prohibited.</p> <p>6. Philanthropic, eleemosynary or religious institutions, hospitals, nursing homes or sanitoriums for general medical care.</p> <p>7. Schools, <u>Vocational</u> <del>of special instruction.</del></p> <p>8. Excavation and removal of soil, subject to per §§98-12 and NYSDEC mining permit may be required.</p> <p>9. Restaurants, fast-food restaurants, with or without drive-thru operations.</p> <p>10. Retail stores, banks and personal service stores.</p> <p>11. Service establishments furnishing services other than of personal nature.</p> <p>12. Motels and hotels per §98-29.</p> <p>13. Car wash facilities.</p> <p>14. Commercial indoor recreational, health and fitness facilities.</p> <p>15. Gas stations with or without accessory convenience retail store or car wash; see §98-29.</p> <p>16. Automotive repair shop; see §98-29.</p> <p>17. Wholesale/retail operations of a light industry nature.</p> <p>18. Self-service storage per §98-29.</p> <p>19. Builder's contractor's office &amp; equipment yards per §98-29.</p> <p>20. Public utility structures and rights-of-way per §98-29.</p>	<p>6. <u>Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</u></p>

<u>21. Small-scale solar energy system per §98-40 D.</u>	
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<i>Town of Chester OP – Office Park District</i>	
<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ul style="list-style-type: none"> <li>1. Office buildings for business and professional use.</li> <li>2. Self-service storage per §98-29.</li> <li>3. Day-care centers and nursery schools as per §98-29.</li> <li>4. Schools, <u>Vocational</u> <del>of special instruction</del></li> <li>5. Motels and hotels per §98-29.</li> <li>6. Gas stations with or without accessory convenience retail store or car wash; see §98-29.</li> <li>7. Banks, restaurants, commercial indoor recreation uses and health and fitness facilities.</li> <li>8. Public utility structures and rights-of-way per §98-29.</li> <li><u>9. Small-scale solar energy systems per §98-40 D.</u></li> <li><u>10. Large-scale solar energy systems per §98-40 E.</u></li> <li><u>11. Utility scale solar energy systems per §98-40 F.</u></li> </ul>	<ul style="list-style-type: none"> <li>1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport for a permitted single-family dwelling.</li> <li>2. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> <li>3. Keeping of not more than a total of five dogs or cats over six months or age or two or more domestic animals.</li> <li>4. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> </ul>

*Town of Chester IP – Industrial Park District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ol style="list-style-type: none"> <li>1. Office buildings for business, research and professional use.</li> <li>2. Bed &amp; breakfast inn as per §98-29.</li> </ol>	<ol style="list-style-type: none"> <li>1. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> </ol>
<ol style="list-style-type: none"> <li>3. Day-care centers and nursery schools as per §98-29.</li> <li>4. Schools, <del>Vocational of special instruction</del></li> <li>5. Automotive repair shop; see §98-29.</li> <li>6. Commercial indoor recreational, health and fitness facilities.</li> <li>7. Self-service storage per §98-29.</li> <li>8. Wholesale operations of a wholesale nature.</li> <li>9. Fully enclosed warehouse distribution facilities.</li> <li>10. Research facilities, experimental and testing laboratories.</li> <li>11. Newspaper and printing establishments.</li> <li>12. Light industrial uses, including manufacturing, assembly, converting, packaging, altering, finishing, cleaning, or any other processing of materials involving the use of oil, gas electricity or the equivalent.</li> <li>13. Public utility structures and rights-of-way per §98-29.</li> <li>14. Commercial lumbering (saw mill operations).</li> </ol>	<ol style="list-style-type: none"> <li>2. Caretaker's or watchman's dwelling only as an accessory to commercial or industrial use as may be specifically allowed by the Planning Board at the time of site plan approval of the primary use or amendment thereto.</li> <li>3. Schools, <del>Vocational of special instruction</del> relating to an industrial use on the premises.</li> <li>4. Retail showrooms accessory to a wholesale business.</li> <li>5. Keeping of not more than a total of five dogs or cats over six months or age or two or more domestic animals or 25 fowl.</li> <li>6. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> </ol>
<p><u>15. Small-scale solar energy systems per §98-40 D.</u></p> <p><u>16. Large-scale solar energy systems per §98-40 E.</u></p> <p><u>17. Utility scale solar energy systems per §98-40 F.</u></p>	

*Town of Chester I-Industrial District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
1. Manufacturing, assembly, converting, packaging, altering, finishing, cleaning, or any other processing of materials involving only the use of oil, gas, or electricity for fuel.	1. Customary accessory buildings and uses.
2. Office buildings for business and professional use.	2. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.
3. Fully enclosed warehouse distribution facilities.	3. Caretaker's or watchman's dwelling only as an accessory to commercial or industrial use as may be specifically allowed by the Planning Board at the time of site plan approval of the primary use or amendment thereto.
<p>4. Truck and transportation terminals, storage and repair facilities.</p> <p>5. Contractor's storage, offices and buildings and outdoor storage of equipment, materials and manufactured products fully screened behind fences, berms, or vegetation from roads and residential areas to the satisfaction of the Planning Board.</p> <p>6. Self-service storage per §98-29; includes the outside storage of recreational vehicles, boats and trucks.</p> <p>7. Research facilities, experimental and testing laboratories.</p> <p>8. Newspaper and printing establishments.</p> <p>9. Lumber and building materials fully screened from roads and residential uses to the satisfaction of the Planning Board.</p> <p>10. Outdoor processing of materials fully screened from roads and residential uses to the satisfaction of the Planning Board.</p> <p>11. Excavations as regulated in §98-12. Quarries, stone crushers, screening plants, and storage of quarry screenings accessory to such uses with NYS DEC permit.</p> <p>12. Concrete and asphalt manufacturing plants, for use of materials off site.</p> <p>13. Public utility structures and rights-of-way per §98-29.</p> <p><u>14. Small-scale solar energy systems per §98-40 D.</u></p> <p><u>15. Large-scale solar energy systems per §98-40 E.</u></p> <p><u>16. Utility scale solar energy systems per §98-40 F.</u></p>	4. Schools, <del>Vocational or special instruction</del> relating to an industrial use on the premises.

*Town of Chester AI- Agri-Industry District*

<i>Uses Requiring Site Plan Approval.</i>	<i>Accessory uses</i>
<ol style="list-style-type: none"> <li>1. Single-family dwelling, not to exceed one dwelling unit per lot without water and sewer.</li> <li>2. Veterinarian's office and/or dog kennel accessory to a residence per §98-29.</li> <li>3. Dormitory accommodations for housing migratory agricultural workers accessory to an agricultural operation, provided such premises are constructed and operated in conformance with applicable state laws.</li> <li>4. Food processing and packing plants, including drying and freezing establishments, <u>but excluding slaughter houses.</u></li> <li>5. Warehousing and wholesaling of farm products and retail establishments devoted primarily to the sale of farm and food processing supplies.</li> <li>6. Wholesaling, storage and warehousing, including building contractors, farming supplies and lumberyards.</li> <li>7. Fully enclosed warehouse and storage facilities.</li> <li>8. Storage of non-farm materials, products and equipment in barns and outbuildings already in existence prior to May 2003. Changes in storage of materials shall require notice to the Building Inspector, and Planning Board review, if required by the Building Inspector.</li> <li>9. Excavations as permitted and regulated in §§98-12 and 98-13. NYS DEC mining permit may be required.</li> <li>10. Public utility structures and rights-of-way per §98-29.</li> <li><u>11. Small-scale solar energy systems per §98-40 D.</u></li> <li><u>12. Large-scale solar energy systems per §98-40 E.</u></li> <li><u>13. Utility scale solar energy systems per §98-40 F.</u></li> </ol>	<ol style="list-style-type: none"> <li>1. Customary accessory buildings, including swimming and wading pools not operated for gain, private garage, storage building or carport for a permitted single-family dwelling.</li> <li>2. Customary home occupations, including (a) family day-care home; (b) group family day-care home, per §98-29H(2)(a) only for a permitted single-family dwelling.</li> <li>3. Keeping of not more than a total of five dogs or cats over six months or age or two or more domestic animals or 25 fowl.</li> <li>4. Customary accessory uses parking and loading areas pursuant to §98-22 and signs pursuant to §98-21.</li> <li>5. Seasonal roadside stand no larger than 300 square feet, for the sale of agricultural products grown principally on the premises.</li> <li>6. Non-seasonal stand no larger than 1,000 square feet in area for the sale of agricultural produce, set back at least 50 feet from the road.</li> <li>7. Outdoor storage of farm equipment, provided it is not located in the front yard.</li> </ol>



## *SCHEDULE H*

### **Article IX**

#### **§98-40 Solar energy systems.**

##### **A. Applicability.**

- (1) The requirements of this local law shall apply to all solar energy systems and equipment installed and modified after the effective date of this local law. Except as provided herein in §98-40 C (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 local law shall not be required to meet the requirements of this local law. However, any modification of such solar system must comply with the requirements of this local law.
- (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, but subject to the following requirements.

- (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) 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) A roof-mounted system may be mounted on any legal principal or accessory building or structure.
  - (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) 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) 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, 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, 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 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.

(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 (3) months thereafter.

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, 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, 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 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.

(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 (3) months thereafter.

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:

<u>Standard</u>	<u>Requirement</u>
<u>Lot width:</u>	<u>250 feet</u>
<u>Front yard setback:</u>	
<u>Town highway</u>	<u>100 feet</u>
<u>County highway</u>	<u>125 feet</u>
<u>State Highway</u>	<u>150 feet</u>
<u>Side yard setback (each):</u>	<u>75 feet</u>
<u>Rear yard setback:</u>	<u>75 feet</u>
<u>Building height:</u>	<u>35 feet</u>
<u>Maximum height of solar collectors:</u>	<u>12 feet</u>
<u>Maximum height of fencing:</u>	<u>8 feet</u>
<u>* If the lots 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.</u>	

(b) The total area of the solar energy system shall not exceed twenty-five (25) acres.

(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) The entire solar energy system shall be enclosed by perimeter fencing at a height of at least seven (7) 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.

(e) 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 2” or less measured at four (4) 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 (2) years prior to application for a solar energy system.

(f) 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.

- (g) 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.
  - (h) Building and structures associated with the solar energy system shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.
  - (i) 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-ways, and shall not interfere with traffic or create a hazard.
  - (j) 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.
  - (k) The identification of the manufacturer and installer, and appropriate warning signs, shall be posted at the site, be clearly visible and weather-resistant.
  - (l) 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.
  - (m) 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.
- (2) Application requirements. In addition to the other requirements in this zoning code 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 §98-40 F (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 (6) 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 one hundred twenty-five (125%) percent 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 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 (5) 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 re-evaluated every five (5) years thereafter 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 §98-40 F (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.