

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Draft: 10-8-18

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of OSSINING

Local Law No. _____ of the year 2018

A local law entitled "Local Law No. _____ of 2018, for the Purpose of Amending Chapter 200, Zoning, of the Town Code with Respect to Solar Energy Systems."

Be it enacted by the TOWN BOARD of the

Town of OSSINING as follows:

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW # __ OF THE YEAR 2018

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

Section 1: Title

This Local Law shall be known and cited as “Local Law No. __ of 2018, for the Purpose of Amending Chapter 200, Zoning, of the Town Code with Respect to Solar Energy Systems.”

Section 2: Legislative Intent

This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents. The Town Board believes that it is reasonable and appropriate to amend Chapter 200, Zoning, of the Town Code with respect to solar energy systems.

Section 3: Zoning Chapter Amendments

1. The following new definitions shall be added to Section 200-53.A:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of Solar Panels and Solar Energy Equipment integrated into ~~any principal~~ building such as vertical facades, semitransparent skylight systems, roofing materials or shading over windows, which produce electricity for onsite consumption.

GLARE

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

NATIVE PERENNIAL VEGETATION

This vegetation is comprised of 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 New York State Department of Environmental Conservation.

POLLINATORS

This fauna consists of 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 that produces electricity for onsite or offsite consumption which is mounted located on the roof of a building.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade so as to permit the use of an active and/or passive Solar Energy System on an individual lot.

SOLAR ENERGY EQUIPMENT

Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

(4) 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. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, and extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2 or Tier 3 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems are ~~the following:~~ Roof-Mounted Solar Energy Systems; and Building-Integrated Solar Energy Systems. Notwithstanding the above, an application for Roof-Mounted and/or Building-Integrated Solar Energy Systems on more than one building or structure, such as on the roof of carports, shall be processed in accordance with § 200-31.3.F, Permitting Requirements for Tier 2 Solar Energy Systems, unless the total surface area of all solar panels on the lot exceeds 900 square feet, in which case the application shall be processed in accordance with § 200-31.3.G, Requirements for Tier 3 Solar Energy Systems herein.
- A. Tier 2 Solar Energy Systems are Ground-Mounted Solar Energy Systems where the total surface area of all solar panels on the lot does not exceed 900 square feet and where the Solar Energy System does not generate more than 110% of the electricity consumed on the site over the previous 12 month period.
- B. Tier 3 Solar Energy Systems are systems that are not Tier 1 or Tier 2 Solar Energy Systems. A Solar Farm is one kind of Tier 3 Solar Energy System.

SOLAR COLLECTOR

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

SOLAR FARM

Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity. Solar Farms are principal uses.

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY

A device that stores energy and makes it available in an electrical form.

2. A new Section 200-31.3 shall be added and shall read as follows:

§ 200-31.3 Solar energy systems.

- A. Authority. This section is adopted pursuant to §§ 261 through 263 of the Town Law and § 20 of the Municipal Home Rule Law of New York State (NYS), 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 NYS Town Law, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”
- B. Statement of Purpose. This section 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:
 - (1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
 - (2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family homes;
 - (3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of solar energy systems;

- (4) To mitigate the impacts of solar energy systems on environmental resources such as forests, wildlife and other protected resources;
- (5) To create synergy between solar and other stated goals of the Town;
- (6) To decrease the use of fossil fuels, thereby reducing the carbon footprint in the Town;
- (7) To invest in a locally generated source of energy and to increase local economic value, rather than importing non-local fossil fuels;
- (8) To align the laws and regulations of the Town with several policies of the State of New York, particularly those that encourage distributed energy systems;
- (9) To become more competitive for state and federal grants and tax benefits;
- (10) To make the Town more resilient during storm events;
- (11) To aid in the energy independence of the Town as well as the country; and
- (12) To diversify energy resources to decrease dependence on the grid.

C. Applicability.

- (1) The requirements of this section shall apply to all Solar Energy Systems permitted, installed or modified in the Town after the effective date of this section, excluding general maintenance and repair.
- (2) Solar Energy Systems constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.
- (3) Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of any fencing) shall be subject to this section.
- (4) 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 (the "Building Code"), the NYS Energy Conservation Code (the "Energy Code") and the Town Code.

D. General requirements.

- (1) A building permit shall be required for the installation of all Solar Energy Systems.
- (2) Approval authorities in the Town are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect the access of such systems to sufficient sunlight so as to remain economically feasible over time.
- (3) 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 fire department and ambulance corps.
 - (c) If Storage Batteries are included as part of the Solar Energy System, they 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.
- (4) Solar Energy System installations must be performed by a qualified solar installer.
- (5) Tier 2 and Tier 3 Solar Energy Systems shall be screened as much as reasonable possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not, however, interfere with the normal operation of the solar collectors.
- (6) The area beneath Ground-Mounted Solar Collectors and Solar Energy Equipment shall be included in calculating maximum permitted impervious surface coverage and building coverage for the applicable zoning district notwithstanding that the collectors are not "buildings." These calculations shall, however, exclude pervious open space between arrays or rows of

Solar Panels. For Tier 3 Solar Energy Systems, the maximum permitted impervious surface coverage and building coverage shall be 35% in all of the zoning districts in which Tier 3 Solar Energy Systems are permitted.

- (7) The clearing of vegetation shall be limited to that which is necessary for the construction, operation and maintenance of Tier 2 and Tier 3 Solar Energy Systems. Solar Energy Systems shall not be sited within any required buffer areas.
- (8) All on-site utility lines shall be placed underground 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.
- (9) Solar Energy Systems and Solar Energy Equipment shall, to the extent reasonably possible, use materials, colors and textures that blend the facility into the existing environment.
- (10) Mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot high fence, as required by the National Electric Code, with a self-locking gate to prevent unauthorized access.

E. Permitting requirements for Tier 1 Solar Energy Systems. Tier 1 Solar Energy Systems shall be permitted in all of the zoning districts in the Town, subject to the issuance of a building permit and the following conditions:

- (1) Roof-Mounted Solar Energy Systems.
 - (a) Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:
 - [1] Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
 - [2] Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - [3] Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

- [4] 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.
 - [5] Solar Panels shall have anti-reflective coating(s).
 - [6] Roof-Mounted Solar Energy Systems shall comply with the height limitations in Table 3 herein.
 - (2) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.
- F. Permitting requirements for Tier 2 Solar Energy Systems. Tier 2 Solar Energy Systems shall be permitted in all of the zoning districts in the Town as accessory structures, and shall be subject to the issuance of site plan approval under § 200-50 of this chapter, subsection H below, Architectural Review Board approval pursuant to chapter 55 of this code, and the following conditions:
- (1) Coating. Solar Panels shall have anti-reflective coating(s).
 - (2) Lot size. The lot on which the Tier 2 Solar Energy System is placed shall meet the minimum lot size requirements in Table 1 herein.
 - (3) Setbacks. Tier 2 Solar Energy Systems shall comply with the setback requirements of Table 2 herein.
 - (4) Height. Tier 2 Solar Energy Systems shall comply with the height limitations in Table 3 herein.
 - (5) Location. Tier 2 Solar Energy Systems shall only be installed in side or rear yards.
 - (6) Screening and visibility.
 - (a) Tier 2 Solar Energy Systems shall have views from public roadways and adjacent properties minimized to the maximum extent reasonably practicable. A landscaping and screening plan shall be submitted which specifies 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.

- (b) Solar Energy Equipment shall be located in a manner so as to reasonably avoid and/or minimize the blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- (c) Tree removal shall be subject to Chapter 183 of this code, including but not limited to § 183-12G pertaining to tree replacement and/or other mitigation.

G. Permitting-Requirements for Tier 3 Solar Energy Systems.

- (1) One of the many important environmental resources of the Town is its trees. In the legislative findings of Chapter 183 of this code the Town Board has found that trees in the Town are potentially in jeopardy of being destroyed or damaged by possible uncontrolled and unregulated cutting, regrading, drainage alteration, construction or other such acts, and that the trees in the Town are a valuable natural resource which can serve to benefit the entire Town and surrounding region. Another important resource of the Town is its visual environment. That is the reason for the Town's creation of an Architectural Review Board. The Town Board believes that it is essential to balance the preservation and use of competing environmental resources for the benefit of the community and surrounding region.

In the interest of maintaining this balance, the Town Board may entertain the creation of Tier 3 Solar Energy System floating zones by the legislative amendment of the Town's Zoning Map. The One-Family, GB, O-RB, O-RE and BE zoning districts are eligible hosts for this floating zone. The Town Board, as a legislative body, has broad discretion in amending the Zoning Map and shall take the preservation and use of environment resources, as well as any other factors it deems pertinent, into consideration in determining whether the Board will entertain an application for the creation of said floating zone. In evaluating this balance, the Town Board will, all other things being equal, favor paved parking areas over natural treeless areas, and will favor natural treeless areas over treed areas, for the installation of Tier 3 Solar Energy Systems. Protection of the visual environment is another important consideration of the Town Board.

- (2) Amendment of the Zoning Map shall follow the same procedure contained in Article XII of this chapter.
- (3) Subsequent to amendment of the Zoning Map, Tier 3 Solar Energy Systems are permitted through the issuance of a conditional use permit and site plan approval under §§ 200-49 and 50 of this chapter respectively, subsections H

and I below, and Architectural Review Board approval pursuant to chapter 55 of this code. ~~Tier 3 systems are permitted in the One-Family Residence, GB, O-RB, O-RE and BE zoning districts.~~

H. Site plan application. In addition to the other site plan application requirements in this chapter, the following site plan application requirements apply. The application shall include the following information:

- (1) Property lines and physical features, including roads, for the project site.
- (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- (3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
- (4) A preliminary equipment specification sheet that documents all solar panels, significant components, mounting systems and inverters that are proposed to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
- (5) The name, address and contact information of the proposed or potential system installer and the owner and/or operator of the Solar Energy System. Final information regarding the system installer shall be submitted prior to the issuance of a building permit.
- (6) The name, address, phone number and signature of the project applicant, as well as the property owner(s), demonstrating their consent to the application and the use of the property for the Solar Energy System.
- (7) The zoning district designation of the parcel(s) of land comprising the project site.
- (8) A property operation and maintenance plan which describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming of vegetation.
- (9) Erosion and sediment control and storm water management plans prepared to NYS State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

- (10) Prior to the issuance of the building permit and prior to approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer or NYS Registered Architect.
- I. Conditional use permit. In addition to the other conditional use standards in this chapter, the following conditional use permit standards shall apply.
 - (1) Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Table 1 herein.
 - (2) Setbacks. Tier 3 Solar Energy Systems shall comply with the setback requirements of Table 2 herein.
 - (3) Height. Tier 3 Solar Energy Systems shall comply with the height limitations in Table 3 herein.
 - (4) Screening and visibility.
 - (a) Tier 3 Solar Energy Systems shall have views minimized from public roadways and adjacent properties to the maximum 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.
 - (b) Tier 3 Solar Energy Systems shall be required to:
 - [1] Conduct a visual 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 be required to be submitted by the applicant.
 - [2] Submit a screening and 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 be minimized as reasonably practical and feasible from public roadways and adjacent properties.

- [3] The screening and 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.
- (5) Driveways. Vehicular driveways within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- (6) Signage.
 - (a) No signage or graphic content shall be displayed on the Solar Energy Systems except for 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 the National Electric Code, 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.
- (7) Coating. The Solar Panels shall have anti-reflective coating(s).
- (8) 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.
- (9) Trees. Tree removal shall be subject to Chapter 183 of this code, including but not limited to § 183-12G pertaining to tree replacement and/or other mitigation.
- (10) Security.
 - (a) A cash deposit, bond or other form of security in an amount and form acceptable to the Town Attorney and Town Engineer shall be submitted to the Town, and shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto, and shall also provide for the removal of the Solar Energy System and restoration of the lot subsequent to removal. The amount of the cash deposit, bond or other security shall be 125% of the cost of removal of the Solar

Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

- (b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond or other security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond or other security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- (c) In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in subsection (p) herein.

(11) Abandonment.

- (a) 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 360 days of notification.
- (b) If the owner and/or operator fails to comply with decommissioning upon abandonment of the Solar Energy System, the Town may, at its discretion, utilize the cash deposit, bond or other security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

(12) Decommissioning.

- (a) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner and/or operators expense, which at the owner's option may come from any security made with the Town as set forth in subsection (n) herein.
- (b) A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

[1] The cost of removing the Solar Energy System.

- [2] The time required to decommission and remove the Solar Energy System and any ancillary structures.
 - [3] The time required to repair any damage caused to the property on which the Solar Energy System is located by the installation and removal of the system.
- (c) The decommissioning plan shall state that the site shall be restored to as natural a condition as possible within six months of the removal of all equipment, structures and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and revegetation of restored soil areas with native seed mixes.
- (13) Ownership or operator changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the conditional use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the conditional use permit, site plan approval and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Building Inspector of such change in ownership or operator within 30 days of the ownership or operator change.
- (14) Vegetation management plan. The application for a Tier 3 Solar Energy System shall include a vegetation management plan which incorporates existing and proposed native perennial vegetation and seed mixes to the maximum extent practicable for foraging habitat beneficial to game birds, song birds and pollinators. Such vegetation shall be located beneath and around Solar Collectors and Solar Energy Equipment, as applicable, to the extent reasonably practical.
- J. Conflict. If any of the provisions of this section are found to be in conflict with other provisions of this chapter, the provisions of this section shall be controlling.
3. **A new Section 200-7.D(6) shall be added and shall read as follows:**
- (6) Tier 1 Solar Energy Systems, subject to § 200-31.3.
4. **A new Section 200-7.D(7) shall be added and shall read as follows:**
- (7) Tier 2 Solar Energy Systems, subject to § 200-31.3.

5. **A new Section 200-7.C(2) shall be added and shall read as follows:**
 - (2) Tier 3 Solar Energy Systems, subject to § 200-31.3.
6. **A new Section 200-17.B(3) shall be added and shall read as follows:**
 - (3) Tier 1 Solar Energy Systems, subject to § 200-31.3.
7. **A new Section 200-17.B(4) shall be added and shall read as follows:**
 - (4) Tier 2 Solar Energy Systems, subject to, subject to § 200-31.3.
8. **A new Section 200-18.C(4) shall be added and shall read as follows:**
 - (4) Tier 1 Solar Energy Systems, subject to § 200-31.3.
9. **A new Section 200-18.C(5) shall be added and shall read as follows:**
 - (5) Tier 2 Solar Energy Systems, subject to § 200-31.3.
10. **A new Section 200-18.B(1) shall be added and shall read as follows:**
 - (1) Tier 3 Solar Energy Systems, subject to § 200-31.3.
11. **A new Section 200-18.1.B(4) shall be added and shall read as follows:**
 - (4) Tier 1 Solar Energy Systems, subject to § 200-31.3.
12. **A new Section 200-18.1.B(5) shall be added and shall read as follows:**
 - (5) Tier 2 Solar Energy Systems, subject to § 200-31.3.
13. **A new Section 200-19.C(6) shall be added and shall read as follows:**
 - (6) Tier 1 Solar Energy Systems, subject to § 200-31.3.
14. **A new Section 200-19.C(7) shall be added and shall read as follows:**
 - (7) Tier 2 Solar Energy Systems, subject to § 200-31.3.
15. **A new Section 200-19.B(2) shall be added and shall read as follows:**

- (2) Tier 3 Solar Energy Systems, subject to § 200-31.3.
- 16. Sections 200-19.1.B, C and D shall respectively be redesignated C, D and E.**
- 17. A new Section 200-19.1.C(9) shall be added and shall read as follows:**
- (9) Tier 1 Solar Energy Systems, subject to § 200-31.3.
- 18. A new Section 200-19.1.C(10) shall be added and shall read as follows:**
- (10) Tier 2 Solar Energy Systems, subject to § 200-31.3.
- 19. New Sections 200-19.1.B and 200-19.1.B(1) shall be added and shall read as follows:**
- B. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof and subject to the requirements specified below and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof.
- (1) Tier 3 Solar Energy Systems, subject to § 200-31.3.
- 20. Sections 200-19.2.B, C and D shall respectively be redesignated C, D and E.**
- 21. A new Section 200-19.2.C(7) shall be added and shall read as follows:**
- (7) Tier 1 Solar Energy Systems, subject to § 200-31.3.
- 22. A new Section 200-19.2.C(8) shall be added and shall read as follows:**
- (8) Tier 2 Solar Energy Systems, subject to § 200-31.3.
- 23. New Sections 200-19.2.B and 200-19.2.B(1) shall be added and shall read as follows:**
- B. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof and subject to the requirements specified below and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof.
- (1) Tier 3 Solar Energy Systems, subject to § 200-31.3.

24. Article XII shall be amended to read as follows:

Article XII Amendments

§ 200-52 Procedure.

This chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion or upon recommendation by the Planning Board. Prior to public hearing, every such proposed amendment which the Town Board desires to entertain shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such entertained amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 45 days following the date of such referral.

[Section 200-52.A shall remain intact.]

- B. Each petition for a zoning amendment which the Town Board desires to entertain shall be accompanied by a fee in the amount set by resolution of the Town Board in the Fee Schedule,^[1] payable to the Town Clerk upon the filing thereof. No fee shall be required for petitions filed in favor of or against a pending application.

[1] Editor's Note: See Ch. A203, Fees.

- C. If the Town Board desires to entertain said petition, then by resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment. In this case, notice of said hearing shall be given by publication in the official newspaper of the Town at least 10 days before the date of such hearing. In addition to such published notice, the Town Board shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lies within 500 feet of any lot line of a property for which a rezoning is sought and to such other persons as the Town Board may deem advisable. All notices of public hearing shall specify the nature of any proposed amendment and shall identify the land or district affected. The names of said owners shall be taken as they appear on the last completed assessment roll of the Town. Provided that due notice shall have been published and there shall have been substantial compliance with the remaining provisions of the section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate any action taken by the Town Board in connection with the approval of a rezoning or zoning amendment.

D. Notice.

- (1) If any proposed amendment consists of or includes either of the following two conditions, the Town Clerk shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of hearing:
 - (a) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village or town.
 - (b) Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1)(a).
- (2) The designated official for counties shall be the Clerk of the Board of Legislators. In villages and towns, the designated official shall be the Clerk of the municipality.^[2]

[2] Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

- E. If any proposed amendment consists of or includes any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code:

[Sections 200-52.E(1) and 200-52.E(1)(a) through (e) shall remain intact.]

- F. In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of Article 16 of the Town Law.

Section 4: Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5: Numbering for Codification

It is the intention of the Town of Ossining and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that

the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6: **Separability**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Ossining that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section 7: **Effective Date**

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by the Municipal Home Rule Law.

J:\DOCS2\500\Ossining (t)\code amendments\solar LL 10-8-18.dhs.docx

Table 1
Minimum Lot Size Requirements

The following table specifies the minimum lot size requirements for Solar Energy Systems.

Zoning Districts	Tier 1 Solar Energy System	Tier 2 Solar Energy System	Tier 3 Solar Energy System
One-Family Residence	no minimum	minimum lot size in zoning district	2 acres
MF, MF-I	no minimum	minimum lot size in zoning district	not permitted
NC, GB-1	no minimum	minimum lot size in zoning district	not permitted
GB, O-RB, O-RE	no minimum	minimum lot size in zoning district	2 acres
BE	no minimum	minimum lot size in zoning district	2 acres

Table 2
Setback Requirements

Table 2 provides setback requirements for Ground-Mounted Solar Energy Systems. Fencing, access roads and landscaping may occur within the setback. Required setback areas shall contain sufficient coniferous vegetation and/or fencing so as to effectively screen the Solar Energy System from adjoining streets and properties.

Zoning Districts	Tier 1 Solar Energy System	Tier 2 Solar Energy System	Tier 3 Solar Energy System
One-Family Residence	NA	twice the standard setback	100 feet
MF, MF-I, NC	NA	twice the standard setback	not permitted
GB-1	NA	twice the standard setback	not permitted
GB, O-RB, O-RE	NA	twice the standard setback	100 feet
BE	NA	twice the standard setback	100 feet

Table 3
Height Requirements

The following table provides height requirements for Solar Energy Systems. The height of systems shall be measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.

Zoning Districts	Tier 1 Roof-Mounted Solar Energy System	Tier 2 Solar Energy System	Tier 3 Solar Energy System
One-Family Residence	2 feet above roof	10 feet	15 feet
MF, MF-I, NC	2 feet above roof	10 feet	not permitted
GB-1	4 feet above roof	15 feet	not permitted
GB, O-RB, O-RE	4 feet above roof	15 feet	20 feet
BE	4 feet above roof	15 feet	20 feet