

Local Law X of 2022

**A Local Law amending Chapter 140 of the
Code of the Town of Rochester**

§ 140-37. Solar energy.

Section 1. Chapter 140 Amendment

Chapter 140 of the Code of the Town of Rochester **§ 140-37. Solar energy.** shall be amended as follows.

§ 140-37. Solar energy.

- A. Purpose. The Town of Rochester recognizes that solar energy is a clean, readily available, and renewable energy source. Development of solar energy systems for residential, agricultural, and nonresidential parcels use of solar energy provides an excellent opportunity for the reuse of land throughout the Town and offers an energy resource that can act to attract and promote green business development. The Town of Rochester has determined that comprehensive regulations regarding the development of solar energy systems is necessary to protect the interests of the Town, its residents, and its businesses. This section is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town. To the extent practicable, and in accordance with Town of Rochester law, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Rochester Code. It is therefore the intent of this section to provide adequate safeguards for the location, siting, and operation of solar energy facilities.
- B. Definitions. The following definitions shall apply specifically to this subsection. Any words defined in § 140-3 of this Code shall retain such definition. Usage of these words in other sections of this Code shall utilize such definition as well.

ALTERNATIVE ENERGY SYSTEMS — Structures, equipment, devices, or construction techniques used to produce heat, light, cooling, electricity, or other forms of energy on site and may be attached to or separate from the principal structure.

AREA OF USE — The area within the parcel measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and access roadways.

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

COLLECTIVE SOLAR — Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a- solar-panel" programs, or other similar arrangements.

COMMUNITY NET METERING — As provided for by the New York State Public Service Commission.

FLUSH-MOUNTED SOLAR PANEL — Photovoltaic panels and tiles or other solar collectors that are installed flush to the surface of a building roof and which cannot be angled or raised.

GROUND-MOUNTED, FREESTANDING, OR POLE-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground and attached to a frame, pole, or other mounting system, detached from any other structure for the purpose of producing electricity for onsite or offsite consumption.

KILOWATT (kW) — Equal to 1,000 watts; a measure of the use of electrical power.

MEGAWATT (MW) — Equal to 1,000 kilowatts; a measure of the use of electrical power.

NET-METERING — A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

OFFSITE USE — A solar energy system designed to be used primarily for export of solar energy to be used primarily by parcels other than the parcel it is located on.

ONSITE USE — A solar energy system designed to be used primarily by the building and/or parcel on which it is located.

PHOTOVOLTAIC (PV) SYSTEMS — A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER — A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who 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 purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. 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.

REMOTE NET METERING — As provided for by the New York State Public Service Commission.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM — A solar panel system located on the roof of any legally permitted and/or constructed building or structure for the purpose of producing electricity for onsite or offsite use.

SOLAR ACCESS — Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun to permit the use of active and/or passive solar energy systems on individual properties.

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 EASEMENT — An easement recorded pursuant to New York Real Property Law § 335-b.

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

SOLAR ENERGY FACILITY/SYSTEM — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR ENERGY SYSTEM, LARGE SCALE — A solar energy system that is ground-mounted and produces energy primarily for the purpose of offsite use, sale, or consumption.

SOLAR ENERGY SYSTEM, SMALL SCALE — Solar photovoltaic systems which generate power exclusively for onsite use and consumption by the owners, lessees, tenants, residents, or other occupants of the premises of the building or lot to which they are attached and do not provide energy for any other lots, except as may be allowable under New York State or federal regulation.

SOLAR ENERGY SYSTEM, SUBDIVISION USE — A collective solar energy system occupying less than or equal to two acres area of use consisting of ground-mounted solar arrays or roof panels, and associated control or conversion electronics and that will be used to produce utility power to provide energy only for the onsite use and consumption of the specific lots associated with a particular major or minor subdivision.

SOLAR GARDEN — Groupings of solar photovoltaic solar panels connected to an electric circuit served by an electric utility company. Multiple users may subscribe to receive the output from one or more panels, receive the benefits of PV technology and the efficiencies associated with a larger-scale project without having to own, host or maintain the equipment on their own property.

SOLAR INVERTER — Converts the variable direct current (DC) output of a photovoltaic (PV) solar panel into a utility frequency alternating current (AC) that can be fed into a commercial electrical grid or used by a local, off-grid electrical network.

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

SOLAR STORAGE BATTERY — A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS — Solar-thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

TILT — The angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90°, to the sun's rays at true solar noon.

TRUE SOLAR NOON — When the sun is at its highest during its daily east-west path across the sky.

- C. Applicability. The requirements of this section shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair. Solar-thermal systems and building- integrated photovoltaic (BIPV) systems are permitted outright in all zoning districts, subject to building permits if determined required.
- D. Permit requirements.
 - (1) All solar energy system installations shall be performed by a qualified solar installer.
 - (2) A solar energy system connected to the utility grid shall provide written proof from the local utility company acknowledging the solar energy facility will be interconnected to the utility grid. Any connection to the public utility grid must be inspected by the appropriate public utility.
 - (3) Solar energy systems shall meet New York's Uniform Fire Prevention and Building Code and National Electrical Code standards.
 - (4) A plan showing location of major components of solar system and other equipment on the roof or legal accessory structure. This plan should represent relative location of components at site, including, but not limited to, location of array, existing electrical service location, utility meter, inverter location, system orientation and tilt angle shall be provided. This plan shall show access and pathways that are compliant with New York State Fire Code, if applicable.
 - (5) Specification sheets for all manufactured components.
 - (6) All diagrams and plans must include the following:
 - (a) Project address, section, block, and lot number of the property.
 - (b) Owner's name, address, and phone number.
 - (c) Name, address, and phone number of the person preparing the plans; and
 - (d) System capacity in kW-DC.
 - (7) Prior to operation proof of electrical connections being inspected and approved by an appropriate electrical inspection person or agency, as determined by the Town of Rochester, must be provided.
- E. Safety.
 - (1) Solar energy systems shall be maintained in good working order.
 - (2) All solar energy systems shall be designed and located to prevent reflective glare from impacting roadways and contiguous properties to the maximum extent practicable.
 - (3) Large scale solar energy systems shall not be permitted to install Battery Energy Storage Systems BESS/solar batteries unless the installation meets NY State Fire Code 1206.4 and all other applicable Solar Battery codes. If a (BESS) or solar storage batteries are included as part of the solar collector system, the operator shall provide:
 - (a) **The location shall be shown on the site plan**

- (b) Detailed information regarding the BESS to be installed including but not limited to fire resistance rating, quantities and types of BESS, manufacturer specifications, associated equipment installations,
 - (c) Description of smoke, fire, exhaust, and deflagration systems to be installed
 - (d) Description of the energy storage management system
 - (e) Signage and fencing plan
 - (f) Operations and maintenance manual prior to commencement of operations
- (4) Information required in Subsection D(4) and (6) must be provided to the fire department that is obligated to respond to a call from that location. Owners and/or operators of large-scale solar energy systems shall provide for biannual training, to Town of Rochester fire and EMS and shall provide all NYSERDA recommended fire protection supplies necessary for fire and EMS response.

F. Exceptions.

- (1) The Planning Board, in conjunction with the review of a specific subdivision, site plan, or special use application, may also appropriately modify other development standards, including but not limited to building height, to accommodate solar and other energy efficient systems.
- (2) No homeowner or property owner association shall prohibit solar energy systems. Covenants and restrictions connected with projects requiring special use permits, site plan review or subdivision approval shall be reviewed for purposes of ensuring there are no such prohibitions.

G. Small-scale solar energy system as an accessory use or structure.

- (1) Applicability.
 - (a) For purposes of this section, the term "small-scale solar" refers to solar photovoltaic systems which generate power exclusively for onsite use by the building or lot to which they are attached, and do not provide energy for any other lots. The use and/or structure shall be accessory to the main use and/or structure and shall be incidental, related, appropriate and clearly subordinate.
 - (b) Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

- (c) No small-scale solar energy system or device shall be installed or operated in the Town of Rochester except in compliance with this section.
- (2) Roof-mounted solar energy systems.
- (a) Roof-mounted solar energy systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted and constructed building or structure, subject to building permits.
 - (b) Height. Solar energy systems shall not exceed maximum height restrictions within the zoning district it is located in, as illustrated in the Schedule of District Regulations¹⁹ Code, and are provided the same height exemptions granted to building-mounted mechanical devices or equipment. See also § 140-11, Height restrictions.
 - (c) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements: Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (d) Roof-mounted solar energy systems that use the energy onsite or offsite shall be exempt from site plan review under the local zoning code or other land use regulations.
- (3) Ground-mounted solar energy systems.
- (a) Ground-mounted solar energy systems that use the electricity primarily onsite are permitted as accessory structures in all zoning districts, subject to building permits.
 - (b) Height and setback. The height of the solar energy system shall not exceed 15 feet when oriented at maximum tilt. Setback requirements shall be as stated for accessory uses for the underlying zoning district. Refer to §140-13 Accessory Uses for regulations.
 - (c) System capacity. Ground-mounted solar energy systems designed for onsite use shall not be sized greater than the energy usage necessary to serve the parcel. Documentation of energy use or energy use expansion necessity may be required.
 - (d) Lot coverage. Ground-mounted solar energy systems shall be granted an additional 10% bonus lot coverage of the lot on which it is to be installed for a specific zoning district as listed from the Schedule of District Regulations. The surface area covered by solar panels shall be included in total lot coverage.
 - (e) Small-scale ground-mounted solar energy systems in the R-1, R-2, or H Zoning Districts shall be installed in the side or rear yards or be located greater than 100 feet from the front lot line.
 - (f) Ground-mounted solar energy systems that use the electricity primarily onsite shall be exempt from site plan review under the local zoning code or other land use regulations.

H. Standards for solar energy system, subdivision use.

- (1) When an application for subdivision is presented to the Planning Board, which plans include incorporation of a solar energy system as a community energy source, the following criteria for the review and use shall be considered.
 - (a) Solar energy systems shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the subdivision on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.
 - (b) Solar energy systems shall be permitted under the Schedule of District Regulations²² when authorized by site plan approval from the Planning Board in conjunction with minor or major subdivision review subject to the following terms and conditions in the AR-3, R-1, R-2, R-5, and H Zoning Districts so long as the solar energy system meets the criteria set forth in this subsection and Chapter 140, subject to obtaining all other necessary approvals.
 - (c) The solar energy system shall be located on one or more lots of the subdivision.
 - (d) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.
 - (e) A homeowners' association shall be established for the operation and maintenance of the solar energy system.
- (2) Site plan requirements. A solar energy system designed for use in conjunction with a specific subdivision use shall comply with all the site plan requirements of Chapter 140 in addition to the subdivision requirements of Chapter 125. Additional requirements for the use shall include but not be limited to the following:
 - (a) Maximum area. The maximum area of use for a solar energy system designed for a specific subdivision use shall occupy less than or equal to two acres of land area of use.
 - (b) Height and setback. The height of the solar energy system shall not exceed 15 feet when oriented at maximum tilt. Setback requirements shall be as stated for the underlying zoning district.
 - (c) Lot coverage. A subdivision solar energy system shall be granted an additional 10% bonus lot coverage of the lot on which it is to be installed for a specific zoning district as listed from the Schedule of District Regulations. The surface area covered by solar panels shall be included in total lot coverage.

- (d) The solar energy system shall be preferably located on an interior lot of the subdivision and placed away from contiguous residential use. Where a solar energy system designed for a specific subdivision use will abut other residential uses outside the boundaries of the subdivision, there shall be increased consideration for mitigating visual impact to the residential use. For example, increased setbacks, visual screening that does not impair solar access, or sound buffering may be required by the Planning Board.
- (e) All solar energy production facilities shall be designed and located in order to prevent reflective glare onto roadways or adjacent structures.
- (f) A minimum twenty-five-foot perimeter buffer, except for the area of roadway access, which may be partially or totally within the subdivision perimeter lot line setback, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town of Rochester Zoning Code standards, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, county and state roads. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter. Existing on-site vegetation designated to be utilized as screening shall be preserved to the maximum extent possible and shall be diligently maintained to protect its vitality.
- (g) Site plans shall be developed that provide for the preservation of natural vegetation in large unbroken blocks that also allow contiguous open spaces to be established when adjacent parcels are developed.
- (h) A land grading and vegetation clearing plan shall be prepared. Clear-cutting of all trees in a single contiguous area shall be limited to the area of the equipment compound plus the area of an emergency access roadway and the area required for solar access.
- (i) Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite.
- (j) Non-invasive ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, and non-fertilizer-dependent.
- (k) All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be required, a SWPPP (stormwater pollution prevention plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be required to be assessed by a New-York-State-licensed professional engineer for the site and any road used to access the site.
- (l) Conveyance of energy to subdivision lots. The site plan shall show the pathways of utility service lines which will be put into place to convey energy to each lot of the subdivision. Necessary utilities to serve the site shall preferably be underground and in compliance with all local, state, and federal laws, rules, and regulations, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. Overhead lines shall follow access

roads and/or existing tree lines to minimize visual impact upon surrounding properties.

- (m) The applicant shall provide the means of restricting access by the public to the solar collector and indicate such on the site plan.
- (n) Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number shall be posted. In addition, "No Trespassing" or other warning signs may be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings.
- (o) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- (p) Proposed covenants and restrictions and a management plan for the proposed homeowners' association (HOA).
- (q) A decommissioning plan, as detailed in § 140-37K, shall be prepared. Compliance with this plan shall be made a condition of the issuance of site plan approval under this section.

I. Standards for large-scale solar systems as a special use.

- (1) Large-scale solar energy systems are permitted through the issuance of a special use permit within AR-3 (solely dual-purpose use continuing agricultural use), R-5, NR, I, and H Zoning Districts, subject to the requirements set forth in this section, including site plan approval. Large-scale solar energy systems shall not be permitted to be constructed on areas of prime farmland as designated by the United States Department of Agriculture.
- (2) Large-scale solar energy systems shall not be permitted to be constructed on areas of prime farmland as designated by the United States Department of Agriculture or in Ulster County Habitat Cores as defined in the Town of Rochester Natural Heritage Plan and Open Space Inventory.
- (3) Large Scale Solar Energy Systems shall not be permitted on lands with slopes greater than 15% or where there shall be significant impacts on hydrological, ecological or view shed assets. The Planning Board shall be authorized to retain outside consultants to do hydrological, ecological and/or visual impact studies.
- (4) "Dual Purpose" Agricultural Use + Large-Scale Solar Energy Systems shall be permitted in AR-3 zoning district. For the use, the parcel shall remain in active agricultural production, at all times. 'Dual Purpose' Solar shall:
 - (a) Be under 2 MW and shall be less than 10 acres. Subdivision of parcels cannot be used to circumvent the restrictions.

- (b) Dual purpose agriculture and solar shall be regulated by Ag and Markets for the agricultural portion and regulated by Town of Rochester Solar Law for the solar portion.
 - (c) Land under the panels shall be used contemporaneously and continuously as crop or pasture for the life of the Dual Purpose Agricultural Solar Energy System.
 - (d) The agricultural use of the operation shall be maintained for the life of the solar system use. If the agricultural use is discontinued the solar use shall also be terminated contemporaneously. If the solar use is terminated the solar installation must be decommissioned (See 140-37 (K)) and the land(s) shall return to agricultural use
- (5) Special use permit application requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions. Compliance with these requirements and standards shall be made a condition of the issuance of a special use permit under this Section
- (a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - (b) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.
 - (c) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

J. Special use permit standards.

- (a) Height and setback. The height of the large-scale energy systems shall not exceed 15 feet when oriented at maximum tilt. Setback requirements shall be a minimum of 250 feet from the property line(s) or 2x the standard setback in a zoning district, whichever is greater. Setbacks shall be inclusive of screening and shall be measured to the edge of the solar panel(s). All inverters shall be set back a minimum of 150 feet from the property line(s) or until electromagnetic field (EMF) meets background level, as determined by the World Health Organization (WHO), whichever is greater, and shall preferably be located in the interior of the Solar System
- (b) Area of use. The area of use for a large-scale solar energy system shall be a maximum of 20 acres.
- (c) Lot coverage. A large-scale solar energy system located in the AR-3, NR, I, or H Zoning District shall be granted an additional 10% bonus lot coverage of the lot on which it is to be installed as listed for nonresidential use from the Schedule of District Regulations. A large-scale solar energy system located in the R-5 Zoning District shall be granted an additional 20% bonus lot coverage of the lot on which it is to be installed as listed for

nonresidential use from the Schedule of District Regulations. The surface area covered by solar panels, inverters and accessory structures shall be included in total lot coverage.

- (d) All solar energy production facilities shall be designed and located to prevent reflective glare onto roadways or adjacent structures.
- (e) A minimum twenty-five-foot perimeter buffer, except for the area of roadway access which may be partially or totally within the perimeter lot line setback, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town of Rochester zoning code standards, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, county and state roads. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter and of 140 -15 Landscaping
- (f) A land grading and vegetation clearing plan shall be prepared. No Large- Scale Solar Energy Systems shall be permitted on lands with a slope greater than 15%. Clear-cutting of all trees in a single contiguous area shall be limited to the area of the equipment compound plus the area of an emergency access roadway and the area required for solar access.
- (g) Noninvasive ground cover under and between the rows of solar panels shall be low- maintenance, drought-resistant, and non-fertilizer- dependent. Pollinator attracting species (varietals such as clover or Geranium maculatum are examples) shall be encouraged for ground cover
- (h) Debris, materials and/or mulch generated by site clearing or construction shall not be stockpiled onsite. The Planning Board shall have the authority to require bonding for the site maintenance during construction
- (i) All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be required, a SWPPP (stormwater pollution prevention plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be required to be assessed by a New- York-State- licensed professional engineer for the site and any road used to access the site.
- (j) A stormwater maintenance plan for the full life of the solar arrays shall be prepared and shall be reviewed by the TOR Planning Board.
- (k) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The Town of Rochester Planning Board shall determine the type of fencing. The Planning Board may determine, upon Site Plan and Special Use review, further screening by landscaping is required.

- (l) Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number shall be posted. In addition, "No Trespassing" or other warning signs may be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Warning signage shall be posted at all access points. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings.
- (m) Property operation and maintenance plan. A Property Operating & Maintenance Plan shall be prepared for the life of the system and shall describe continuing photovoltaic maintenance and property upkeep, such as but not limited to the frequency and methodology of mowing and trimming, landscaping maintenance, snow clearing, and fence inspection and repair. Any and all disused or non-functioning panels or equipment shall not be stockpiled on the site and shall be removed and disposed of as detailed in §140-37 (K) at the occurrence of non-use
- (n) A decommissioning plan, as detailed in § 140-37K, shall be prepared. The decommissioning plan shall be fully bonded with the Town. The decommissioning plan shall be established with a 15% overage premium and shall have an annual CPI inflation adjustment or as specified by the Town Attorney Compliance with and bonding of this plan shall be made a condition of the issuance of a special use permit under this section.
- (o) The solar energy production facility shall comply with § 140-20, General commercial and industrial standards.

K. Registration of large-scale solar energy production facilities.

- (1) Purpose. The Town of Rochester desires to develop a registration system to ensure all large-scale solar energy production facilities are properly maintained and to ensure all owners properly maintain and inspect their facilities.
- (2) All owners of large-scale solar energy production facilities located in the Town of Rochester shall be required to register the facility upon granting of a certificate of occupancy. Facilities in existence as of the effective adoption date of this chapter shall have 60 days from the filing of this chapter to register.
- (3) The Code Enforcement Office shall administer the local large-scale solar energy production facility registration system. The Town Board shall establish the fees structure for the registration which may be amended by resolution from time to time. Registration shall be effective for a three-year period, with renewal required prior to expiration date. Recertification shall be required for year two and three as described in this chapter.
- (4) Registration requirements. The owner shall provide and certify to the Town the following:
 - (a) The name, mailing address, phone number, email address, and

an emergency contact name for the corporation or owner of the solar energy production facility.

- (b) The name, mailing address, phone number, email address, and an emergency contact name for each entity which leases space from the facility owner.
 - (c) Written certification the large-scale solar energy production facility is in compliance with the approval and in compliance with all applicable codes, laws, rules, and regulations.
 - (d) Written certification onsite vegetation has been maintained to ensure the desired screening effect.
 - (e) Inspection of facilities. The owner and any and all lessees, renters, and/or licensees of large-scale solar energy production facilities shall agree in writing to allow the Code Enforcement Officer or their assignee access to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification, and maintenance of such facilities, including, but not limited to, solar panels, support structures, and buildings or other structures constructed or located on the permitted site to verify accordance with any applicable technical, safety, fire, building, and zoning codes, laws, regulations, and other applicable requirements.
- (5) Notification of termination of use. The owner shall sign a letter of commitment, which shall commit the large-scale solar energy production facility owner and its successors and assigns to notify the Code Enforcement Officer in writing, within 30 days of the discontinuance of use of the facility. Failure to notify and thereafter remove the facility and all appurtenances shall be deemed a violation punishable under applicable provisions of the Town of Rochester Zoning Chapter. Notwithstanding this provision, the Code Enforcement Officer shall have the right to independently investigate any discontinuance of the facility and render a written determination setting forth the extent, duration and facts evidencing the violation and the discontinuance of the facility. Upon rendering said written determination, written notice of the determination shall be provided to the owner and the lessees of the facility and the owners of the real property upon which the facility is situated by certified mail, return receipt requested. Sixty days after proven receipt of the notice of the determination by the facility owner, any lessee of the facility and the owners of the real property said facility is situated thereon, the Code Enforcement Officer and the Town of Rochester may commence legal proceedings and have the facility removed from the site in accordance with all applicable law.
- (6) Annual certification. Recertification by the facility owner of the following and be due on the anniversary date of registration.
- (a) The name, mailing address, phone number, email address, and an emergency contact name for the corporation or owner of the solar energy production facility.
 - (b) The name, mailing address, phone number, email address, and an emergency contact name for each entity which leases space from the facility owner.

- (c) The large-scale solar energy production facilities are in compliance with the approval and in compliance with all applicable codes, laws, rules, and regulations.
- (d) Decommissioning plan changes shall be reported and filed with the annual certification
- (7) Renewal of registration. Registrations shall be required to be renewed beginning with a period of time 90 days prior to expiration until the anniversary date of the registration.
- (8) Changes in registration information. The owner shall provide notice to the Town of any changes in registration information within 30 days of such change.
- (9) Changes in registration information. The owner shall provide notice to the Town of any changes in registration information within 30 days of such change.

L. Decommissioning plan for solar energy systems.

- (1) Any use which requires approval by the Planning Board shall include a decommissioning plan and decommissioning bond approved by the Planning Board. The decommissioning bond shall be established with a 15% overage premium and shall have an annual CPI inflation adjustment or as specified by the Town Attorney
- (2) The decommissioning plan shall specify that after the solar energy system will no longer be used, it shall be removed by the applicant or any subsequent owner and shall include a signed statement from the party responsible for completing the decommissioning plan acknowledging such responsibility.
- (3) The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state or improved environmental habitat prior to construction.
- (4) The plan shall state disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste and environmental disposal regulations at the time of remediation.
- (5) The plan shall include an expected timeline for execution.
- (6) The plan shall include a cost estimate detailing the projected cost of executing the decommissioning plan prepared by a professional engineer or contractor. Cost estimations shall consider inflation.
- (7) Removal of solar energy systems must be completed in accordance with the decommissioning plan. If the solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system, restore the property, and impose a lien on the property to cover these costs to the municipality.

M. Abandonment and removal of energy systems.

- (1) Any solar energy facility which ceases to operate shall be wholly removed from the site. "Ceases to operate" is defined as not performing all normal functions associated with operation of the

solar energy facility and its equipment on a continuous basis for a period of one year.

- (2) In the event the solar energy facility is not so removed, the Town Board, upon notice from the Code Enforcement Officer shall give written notice to the owner of such facility (i) stating that the solar energy facility is considered abandoned, and (ii) setting a time, date, and place for a public hearing. Such public hearing shall be on not less than 30 days' notice to such owner. Upon a finding that the solar energy facility has been abandoned, the Town Board shall deliver written notice to the facility owner indicating the reasons for its finding and directing that the solar energy facility be removed within 120 days. If the solar energy facility is not so removed, the Town Board may commence an action in Supreme Court against the owner of such facility seeking an order requiring the removal.
- (3) Upon recommendation of the Code Enforcement Officer the Town Board may waive or defer the requirement that a solar energy facility be removed if it determines that retention of such facility is in the best interest of the Town.
- (4) Should the Town remove the solar energy facility pursuant to this subsection, the Town shall chargeback any costs against the owner and/or applicant. If the owner of said property does not pay said charges, they shall be included as a part of the next Town tax bill and said charge shall be due and payable by said owner at the time of payment of said bill.

Section 2. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part, provision, or application.

Section 3. Effective Date

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.