

## **A LOCAL LAW TO AMEND CHAPTER 110 -- ZONING -- TO INTRODUCE AND REGULATE SOLAR ENERGY SYSTEMS**

Be it enacted by the Village/Town of Mount Kisco of the County of Westchester as follows:

**Section 1.** The Code of the Village/Town of Mount Kisco Chapter 110 Zoning, is hereby amended to add a new Section 110-33.2 to Article V entitled Solar Energy Law which is as follows:

Additions are reflected with Underlining,  
Deletions are reflected within ~~Strikethrough~~

### **Solar Energy Law**

#### § 110-33.2: Solar Energy Law.

##### **A. Authority.**

This Solar Energy Local Law is adopted pursuant to sections 7-700 through 7-704 of the Village Law, and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Village/Town of Mount Kisco to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Village and Town law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

**B. Statement of Purpose.** This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the people of the Village 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 houses;
- (3) To increase employment and business development in the Village, 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 the stated goals of the community pursuant to its

Comprehensive Plan, such as the protection of environmental resources, assuring that community services sufficiently meet the needs of the Village's current and future population, and promote a balanced pattern of future land use;

(6) To invest in a locally generated source of energy and to increase local economic value, rather than importing non-local fossil fuels;

(7) To align the laws and regulations of the community with several policies of the State of New York, particularly those that encourage distributed energy systems;

(8) To diversify energy resources to decrease dependence on the grid;

(9) To make the community more resilient during storm events, and;

(10) To encourage investment in public infrastructure supportive of solar, such as generation facilities, grid-scale transmission infrastructure, and energy storage sites.

### **C. Applicability.**

(1) The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Village of Mount Kisco after the effective date of this Local Law, excluding general maintenance and repair.

(2) Legally authorized Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 20% of the original area of the Solar Energy System (exclusive of moving any fencing) or fail to comply with zoning, shall be subject to this Local Law.

(4) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Code of the Village/Town of Mount Kisco ("Village Code").

### **D. General Requirements.**

- (1) A Building permit shall be required for installation of all Solar Energy Systems.
- (2) Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").
- (3) Unless specifically superseded herein, all other chapters of this Code and any other applicable County, State or Federal law or regulation shall apply.
- (4) The ~~B~~building ~~i~~Inspector or the Planning Board shall have the may, at its discretionary authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary, including but not limited to, refer any application to the fire department, or other and emergency service providers, for reviews and recommendations, as to both fire safety and accessibility.

#### **E. Permitting Requirements for Tier 1 Solar Energy Systems**

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

##### (1) Roof-Mounted Solar Energy Systems

- (a) Roof-Mounted Solar Energy Systems on buildings 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 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.
- (b) Glare: All Solar Panels shall have anti-reflective coating(s).
- (c) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in the underlying zoning district. If the installation is proposed to an existing building whose height already meets or exceeds the maximum building height, the System may be installed above the

existing maximum roof height but not to exceed 24 inches above the existing maximum height.

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

(3) Tier one Solar Energy Systems may also be installed ~~ason~~ the roof of an accessory structure provided that collectively such panels shall not exceed 750 square feet and shall comply with zoning requirements for accessory structures.

#### **F. Permitting Requirements for Tier 2 Solar Energy Systems: RESERVED**

#### **G. Permitting ~~R~~Requirements for Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit and site plan approval within the Conservation Development District (CD), Preservation District (PD), Limited Commercial District (CL), General Commercial District (GC), General Retail District (GR), Hospital District (H), Light Manufacturing District (ML), , Low-Intensity Office District (OD), General Office District (OG), ~~Central Business District – 1 (CB-1), Central Business District – 2 (CB-2),~~ Recreation District (R), Research and Development District (RD), and Service Commercial District (SC) zoning districts. All such Tier 3 Solar Energy Systems shall be subject to the underlying zoning restrictions in the district in which they are proposed as set forth within this Chapter.

(1) Applications for the installation of Tier 3 Solar Energy System shall be subject to all rules, referrals, procedures and requirements applicable to special permit and site plan applications.

(2) Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment.

(3) Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(4) Signage.

(a) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted on the smallest sign feasible and in no case shall the sign be of an area greater than ~~86~~ square feet.

- (b) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

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

(6) 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.

(7) Tree-cutting. Removal of existing trees larger than 8 inches in diameter should be minimized to the extent practicable and a mitigation/replanting plan shall be required on and/or offsite pursuant to Chapter 99. Mitigation shall be determined based upon the area of disturbance as determined by the Planning Board. In determining any replanting or replacement, the Planning Board may require a Pollinator Friendly Habitat as an additional means of mitigation.

(8) Decommissioning.

- (a) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense.
- (b) A decommissioning plan (see Appendix 1) 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 any ancillary structures.

(3) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

(4) A tree restoration plan, restoring the decommissioned area to a condition similar to the condition that existed prior to the installation, Recognizing that mature plantings cannot be easily relocated, the Planning Board may exercise discretion in determining the number, caliper, type and location of plantings in reviewing any such plan, but all plantings shall be native non-invasive species.

- (c) Security/Lien.

~~(1) — Appropriate arrangements shall be made between the Owner and Operator to provide necessary security or bond in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal as set forth in the decommissioning plan.~~

~~(2) — In the event of default upon performance of such decommissioning, after proper notice, the Village shall be entitled to arrange for removal or decommissioning and the cost of same shall constitute a lien on the Owners real property.~~

(9) Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall, in addition to the material required by §110-45, include the following information:

- (a) Property lines and physical improvements and features, including driveways, roads, topography, and trees as taken from an updated survey for the project site.
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- (c) 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.
- (d) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- (e) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- (f) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- (g) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

- (h) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- (i) Any additional information required by the Planning Board based upon the on-site conditions.

(10) Special Use Permit Standards.

- (a) Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
- (b) Setbacks. The Tier 3 Solar Energy Systems shall comply with the following setback requirements:
  - i. In all non-residential districts, each Tier 3 Solar Energy System shall, at a minimum, (a) satisfy the setbacks requirements of the underlying zoning district for principal structures, and (b) shall not be set back less than the maximum height of the system;
  - ii. In all residential districts, each Tier 3 Solar Energy Systems shall, at a minimum, (a) satisfy the setback provisions as expressly provided in said district, and (b) shall not be set back less than the maximum height of the system. Where the Planning Board determines that consistent with the stated purpose and intent of the underlying district, that an alternate layout would better protect and preserve existing topography, wetlands, steep slopes and view sheds, the Planning Board may increase such setback requirements and require supplemental methods of screening through earth berms, landscaping and other such treatments, or such other condition which provides for a better layout,
- (c) Height. The Tier 3 Solar Energy Systems shall not exceed 15 feet in height in residential districts and shall not exceed 20 feet in non-residential districts, except that the Planning Board, in its discretion, may alter same to accommodate vehicle clearance for carports. For purposes of determining height structures shall be subject to the definition of structure height in §110-59.
- (d) Development coverage.
  - (1) The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for development coverage requirements:

- i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
- ii. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
- iii. The horizontal surface area of all panels, arrays, fencing and other components of the Tier 3 Solar Energy System.
- iv. Access roads servicing the Solar Energy System.

(2) Development coverage of the Tier 3 Solar Energy System, as defined above, shall be restricted as follows:

- i. In all non-residential districts, no lot shall exceed the maximum lot development coverage requirement of the underlying zoning district, inclusive of any development coverage derived from Solar Energy Systems.
- ii. In all residential districts, each lot shall comply with the designated maximum lot development coverage requirement of the underlying zoning district, and shall not occupy more than 35% of the net lot area

(e) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed and secured as required by NEC and the Planning Board, with a self-locking gate to prevent unauthorized access.

(f) Screening, Visibility, and Habitat. 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, may be required to be submitted by the applicant.
- (2) Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be



minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Village.

- (3) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators consistent with any requirements of the Agriculture and Markets Law. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

- (11) Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan.

## **H. Safety**

- (1) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- (2) Solar Energy Systems, and access to same, shall be maintained in good working order, in accordance with industry standards, and as may be specified or required by the Planning Board.
- (3) 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 Village and any applicable federal, state, or county laws or regulations.

## **I. Permit Time Frame and Abandonment**

- (1) The Special Use Permit and site plan approval for a Solar Energy System shall be subject to commencement of construction within 12 months from the date of site plan approval. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after commencement of construction, the Planning Board, upon prior written application of the applicant may extend the time to complete

construction for an additional 6 months. If the applicant fails to achieve substantial completion after 24 months, the approvals shall expire.

(2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Village may notify and instruct the ~~property~~ 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.

~~(4)~~(3) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Village may remove of the Solar Energy System, restore the site in accordance with the decommissioning plan and place a lien on the property for the cost of such undertaking.

(4) If, at the time of decommissioning, the property owner desires to pursue a utilization of the area different from the restoration set forth in the decommissioning plan, said owner shall pursue a site plan amendment in a timely fashion so that the application, approval and implementation may all be completed before the expiration of the 360 day period referenced in subparagraph (2). Said application shall comply with then existing zoning regulations.

#### **J. Enforcement**

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Village.

#### **K. Severability**

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

### **APPENDIX 1: EXAMPLE DECOMMISSIONING PLAN**

Date: [Date]

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

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

As required by the Village/Town of Mount Kisco, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

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

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale.

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

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

**Section 2.** The Code of the Village/Town of Mount Kisco Chapter 110 Zoning, §110-59 Definitions, is hereby amended to add the following terms which shall have the meanings indicated:

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

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: 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.

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

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

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

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

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which 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 include the following:

- i. Roof-Mounted Solar Energy Systems on buildings.
- ii. Building-Integrated Solar Energy Systems. and,
- iii. Solar Energy Systems mounted as a roof on an accessory structure, not exceeding a total roof area of 750 square feet and not constituting a ground mounted solar energy system as defined herein.

B. Tier 2 Solar Energy Systems ~~RESERVED include Ground Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 1,000 square feet~~

~~and that generate up to 110% of the electricity consumed on the site over the previous 12 months.~~

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems, or any Tier 1 or 2 system that does not comply with the applicable regulations.

SOLAR ENERGY SYSTEM COVERAGES: All Solar Energy Systems shall constitute building and/or development coverage. Building coverage shall be deemed increased only to the extent that any additional building is created. Development coverage shall be deemed increased only to the extent that the surface area of any development coverage is increased. For purposes of this chapter, open air carports shall constitute structures, not buildings.

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.

**Section 3.** The Code of the Village/Town of Mount Kisco Chapter 110 Zoning, §110-6 PD Preservation District, is hereby amended as follows:

**§ 110-6 PD Preservation District.**

**[Amended 4-16-1990 by L.L. No. 4-1990; 5-24-1993 by L.L. No. 5-1993; 10-21-1996 by L.L. No. 3-1996; 6-15-1998 by L.L. No. 3-1998; 4-21-2003 by L.L. No. 2-2003]**

**A. Purpose and intent.**

- (1) The PD District is intended to preserve natural resources, scenic beauty and other land and community resources whose retention is necessary for the continued maintenance of the quality of the environment. Land in this category is either considered unsuitable for development because of flood susceptibility, wetlands or steep slopes or it is presently utilized for park or open space uses.
- (2) Park facilities, beautification and/or preservation efforts are consistent with this district's purpose.

**B. Permitted uses.** No building or premises shall be used, and no building shall be erected, altered or added to, unless otherwise provided in this chapter, except for the following:

- (1) Principal uses.
  - (a) Public parks, playgrounds or similar recreational areas, including customary recreational, refreshment and service buildings and uses.
  - (b) Natural open space areas and uses designed for environmental or ecological preservation.

(c) Public buildings or uses operated by the Village of Mount Kisco, the Bedford Central School District or other governmental entities.

(2) Special permit uses.

(a) Golf courses and country clubs, including recreational facilities and buildings accessory thereto, subject to the following conditions:

[1] Minimum lot size shall be 25 acres.

[2] No building, parking or loading area shall be nearer than 100 feet to any street or lot line.

(b) Cemeteries, including expansions of existing cemeteries, provided that no graves or structures shall be permitted within 25 feet of any lot line.

(c) Tier 3 Solar Energy Systems, subject to the provisions of Articles V and IX of this chapter and further subject to the following requirements specific to this particular district:

[1] the parcel upon which the use is sited shall have frontage and access on a county or state road.

[2] no panels, arrays, fencing enclosures or other facilities or structures shall be permitted within 25 feet of any lot line.

[3] ~~the plan shall minimize~~ adverse visual and aesthetic impacts shall be minimized to the maximum extent practicable through careful design, siting, landscaping, screening and other camouflaging techniques.

[4] due consideration shall be given to protect the natural resources, ~~wildlife~~, environmental features, physical appearance of the Town and preserve the site's scenic and natural beauty.

[5] given the underlying purpose and intent of Preservation District, coupled with its abundance of wetlands, wildlife habitats and other ecologically and environmentally sensitive conditions, due consideration shall also be given to preserving and enhancing the wildlife habitat. Measures designed to create or promote wildlife and wetland corridors for existing animal populations shall be incorporated. Such initiatives may [SHALL] include fencing designs that facilitate animal movements under or through the fencing, elimination of existing barriers, protection and/or expansion of native vegetation that offers food, shelter and protection of the wildlife populations.

[6] in trying to attain the benefits of solar energy systems while safeguarding the scenic beauty, preserving natural resources, mitigating wetlands and wildlife

impacts, and protecting the environmentally sensitive features of the Preservation District, wide discretion shall be conferred in determining what is suitable, in the judgment of the Planning Board, for purposes of location, access, design, plantings, dimensions, appearance, screening and other items of consideration mitigation or appropriate conditions.

OR

~~[6] in trying to attain the benefits of solar energy systems while safeguarding the scenic beauty, preserving natural resources, mitigating wetlands and wildlife impacts, and protecting the environmentally sensitive features of the Preservation District, wide discretion shall be conferred in determining what is suitable, in the judgment of the Planning Board, for purposes of location, access, design, plantings, dimensions, appearance, screening and other items of consideration mitigation or appropriate conditions.~~

(3) Accessory uses.

- (a) Off-street parking of passenger and commercial vehicles, in the open or in private garages, in accordance with the provisions of Article IV of this chapter.
- (b) Maintenance, security or utility structures serving the specific needs of the development.
- (c) Recreation buildings or uses serving the specific needs of the development, excluding indoor tennis buildings, air-supported structures or other such large recreation buildings.
- (d) Living facilities for management, maintenance or security personnel.
- (e) Indoor storage facilities incidental to the principal use.
- (f) Tier 1 Solar Energy Systems.
- (g) Other accessory uses that are incidental to the principal use on the site.

C. Development regulations. Each site in the PD District shall be subject to the following development regulations:

- (1) Maximum height of principal structure: 25 feet.
- (2) Minimum building setback:
  - (a) Front: 50 feet.
  - (b) Rear: 50 feet.
  - (c) Side: 25 feet.

**Section 4.** The Code of the Village/Town of Mount Kisco Chapter 110 Zoning, §110-7 CD Conservation Development District, is hereby amended as follows:

**§ 110-7 CD Conservation Development District.**

**[Amended 6-6-1988 by L.L. No. 2-1988; 4-16-1990 by L.L. No. 4-1990; 5-24-1993 by L.L. No. 5-1993; 6-15-1998 by L.L. No. 3-1998; 4-21-2003 by L.L. No. 2-2003]**

- A. Purpose and intent. The CD District is intended to permit single-family residential development at relatively low densities, consistent with the long-range planning objectives of the Village, which development is designed to maintain, preserve and enhance the natural and man-made environment of the lands within and adjacent to the district. In adopting this district, the Village Board of the Village of Mount Kisco declares its intent to encourage well-planned residential site development by establishing flexible zoning controls that are designed to assure maximum conservation and efficient utilization of land.
- B. Permitted uses. No building or premises shall be used, and no building shall be erected, altered or added to, unless otherwise provided in this chapter, except for the following:
- (1) Principal uses.
- (a) Detached one-family dwellings, not to exceed one such dwelling per lot.
  - (b) Other uses existing on the effective date of this chapter.
- (2) Special permit uses.
- (a) Places of religious worship, including parish houses, rectories and the like and also including religious schools.
  - (b) Tier 3 Solar Energy Systems.
- (3) Accessory uses.
- (a) Off-street parking of passenger and commercial vehicles, in the open or in private garages, in accordance with the provisions of Article **IV** of this chapter.
  - (b) Swimming pools and tennis and deck- or paddle-tennis facilities, in accordance with the provisions for such as set forth in Article **V** of this chapter.
  - (c) Customary home gardens.
  - (d) The keeping of a reasonable number of common household pets, but excluding the commercial breeding or boarding of the same.
  - (e) The keeping of horses, provided that a minimum of three acres of suitably designed land is available for each such animal, and further provided that no structure in which such animals are kept and no storage of odor-producing or dust-producing substances shall be located within 250 feet of any residential structure or lot line.
  - (f) Tier 1 Solar Energy Systems.



- (g) Other customary accessory uses, buildings or structures subject to the applicable provisions of Article V hereof, such as playhouses, greenhouses, cabanas, trash containers, outdoor air conditioners and the like, provided that said uses and buildings or structures are incidental to the principal use, and further provided that said uses shall not include any activity conducted as a business or as a separate residence.
- (h) Additional customary accessory uses incidental to residential developments, such as:
  - [1] Living facilities for the management, maintenance or security personnel of the development. These living facilities shall be included in the total dwelling unit count for the development.
  - [2] Maintenance, security or utility structures serving the specific needs of the development.
  - [3] Recreation buildings or uses serving the specific needs of the development, excluding indoor tennis buildings, air-supported structures or other such large recreation buildings.

C. Development regulations.

- (1) Site and lot regulations for detached one-family dwellings.

- (a) Site regulations:

- [1] Minimum site area: 25 acres.
- [2] Maximum density: 1.0 dwelling per 1.25 acres of net lot area.
- [3] Buffers:

<b>From</b>	<b>Distance (feet)</b>
Major street	200
Street	100
Public or quasi-public recreation use	200
Property line	100

- [4] Minimum open space area: 35% of the gross site area shall be designated as open space and comply with the provisions listed in § 110-7C(1)(c). Open space shall not include the area covered by any buildings or other impervious surfaces, including roadways. Such open space shall be substantially contiguous and may include wetlands, steep slopes, and buffers of at least 100 feet in depth.

(b) Lot regulations:

- [1] Minimum net lot area: 15,000 square feet.
- [2] Maximum building coverage: 20%.
- [3] Maximum development coverage: 35%.
- [4] Minimum lot width: 100 feet.
- [5] Minimum building setback:
  - [a] Front: 30 feet.
  - [b] Side: 20 feet.
  - [c] Rear: 50 feet.
- [6] Maximum height of principal structure: 2 1/2 stories or 35 feet, whichever is less.

(c) Additional regulations.

- [1] Each lot containing a one-family dwelling shall be held in fee simple ownership.
- [2] Principal ingress and egress directly to a major street shall be provided. Secondary access to other roads shall be permitted, provided that said access is utilized primarily for emergency purposes and not for access or egress to the principal use or the site.
- [3] The Planning Board may modify the required right-of-way and pavement widths for private roads serving the development if, on the basis of sound planning and engineering standards, it determines that the proposed widths are adequate and sufficient in size, location and design to accommodate the traffic, parking and loading needs of the proposed development and to provide adequate access for fire-fighting equipment and police or emergency vehicles.
- [4] Buffers shall be designed to effectively limit the visibility of the development from surrounding uses and shall principally include areas left substantially in their natural state, although the Planning Board may require that portions of said buffer areas be landscaped with grass, trees, shrubs or other ground cover or treatment to effectively limit the visibility of the development from surrounding areas. No parking, loading or buildings shall be permitted in said buffer areas, with the exception of preexisting buildings; a gate or security house of not greater than 125 square feet in floor area and 15 feet in height; and required utility

structures designed to service the proposed development. Any new accessory structure located in a buffer area shall be permitted upon approval of the Planning Board. The minimum depth of said buffer area may be reduced by the Planning Board under site plan approval where the uses on each side of a common property line are generally similar in nature, but in no event shall such reduction exceed 50% of the hereinbefore mentioned buffer area depth.

- [5] Significant ecological features, such as trees and stands of trees of significant size or character, streams and wetlands, shall be preserved and incorporated into the landscaping of the development to the maximum extent possible.
- [6] Significant topographical features, such as steep slopes and large rock outcrops, shall be preserved, except where, in the judgment of the Planning Board, their alteration is necessary to achieve a satisfactory site plan.
- [7] All utilities shall be installed underground or within buildings. Plans for water and sewer service shall be subject to approval by the Village Engineer. On-site drainage facilities shall be provided so as to minimize off-site flooding. Said drainage facilities shall also be subject to approval by the Village Engineer.
- [8] If development is planned in stages, the Planning Board shall review and, if acceptable, approve the overall plan, as well as each stage, to assure that the staged development meets good planning and engineering standards.
- [9] Open space.
  - [a] The development shall result in the preservation of open space having meaningful scenic, ecological and/or recreational characteristics, with its location, access, shape and dimensions suitable, in the judgment of the Planning Board, for the intended purposes.
  - [b] The preservation of such open space shall be permanently assured by means of the filing of covenants and restrictions and/or scenic easements on the land. In addition, such land shall be conveyed to one of the following:
    - [i] A private land trust that assures the permanent preservation of such land as open space; or
    - [ii] An association of all property owners within the development, established in accordance with applicable law.
  - [c] All legal agreements and documents pertaining to the establishment of any trust or association and to the preservation and protection of all open space

shall be subject to approval by the Village Board of the Village of Mount Kisco. The Village may require any additional conditions, agreements or documents which it deems necessary to ensure the completion of all improvements, the establishment of and continuity of the trust or association and the preservation and protection of all open space.

(2) Lot regulations for places of worship, including parish houses, rectories and the like and also including religious schools.

- (a) Maximum building coverage: 25%.
- (b) Maximum development coverage: 35%.
- (c) Minimum building setback:
  - [1] Front: 30 feet.
  - [2] Rear: 50 feet.
  - [3] Side: 50 feet.
- (d) Minimum buffer:
  - [1] Front: 20 feet.
  - [2] Rear: 20 feet.
  - [3] Side: 20 feet.
- (e) Maximum height of principal structure: 2 1/2 stories or 35 feet, whichever is less.

(3) Lot regulations for places of Tier 3 Solar Energy Facilities.

- (a) Minimum lot area and site requirements: 25 acres parcel having frontage and access on a county or state road.
- (b) Maximum building coverage 1% of net lot area and ~~in no event shall building area exceed the minimum space necessary for~~ battery/ solar equipment storage.
- (c) Maximum development coverage: 35%.
- (d) Minimum building setback:
  - [1] Front: 200 feet.
  - [2] Side: 200 feet.
  - [3] Rear: 200 feet.

(e) Minimum buffers:

<u>From</u>	<u>Distance (feet)</u>
<u>Major street</u>	<u>200</u>
<u>Street</u>	<u>200</u>
<u>Public or quasi public recreation use</u>	<u>200</u>
<u>Property line</u>	<u>200</u>

[e] Minimum open space area: 35% of the gross site area shall be designated as open space and comply with the provisions listed in § 110-7C(1)(c)(2)-(8). Open space shall not include the area covered by any buildings or other impervious surfaces, including roadways. Such open space shall be substantially contiguous and may include wetlands, steep slopes, and buffers of at least 100 feet in depth.

**Section 5.** The Village Clerk shall cause the amendments effected by this Local Law to be incorporated into the Code of the Village/Town of Mount Kisco.

**Section 6.** Should any section or provision of this Law be determined by any court of competent jurisdiction to be unconstitutional or invalid, then such section shall be null and void and shall be deemed separable from the remaining section(s) of this Law, and such determination shall in no way affect the validity of the remaining sections or provisions of this Law.

**Section 7.** This Law shall become effective immediately upon its filing with the Secretary of State of the State of New York.