

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.

County City Town Village
(Select one.)

of Greenburgh

Local Law No. 3 of the year 2024

A local law amending several sections of Chapter 285 of the Code of the Town of Greenburgh,
(Insert Title)
entitled "Zoning" related to a New Use (Solar Engery Systems)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Greenburgh as follows:

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



TOWN of GREENBURGH

Local Law No. 3 / 2024

A local law amending Chapter 285 of the Code of the Town of Greenburgh entitled “Zoning,” pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law Article 8 (SEQR).

BE IT ENACTED by the Town Board of the Town of Greenburgh:

- § 1. Title.
- § 2. Legislative Findings and Intent.
- § 3. Amendment to § 285-5 Definitions.
- § 4. Amendment establishing § 285-9.1 Solar District (SD) Zone.
- § 5. Amendment to § 285-10 R-40 One-Family Residence District
- § 6. Amendment to § 285-11 R-30 One-Family Residence District
- § 7. Amendment to § 285-12 R-20 One-Family Residence District
- § 8. Amendment to § 285-13 R-15 One-Family Residence District
- § 9. Amendment to § 285-14 R-10 One-Family Residence District
- § 10. Amendment to § 285-15 R-7.5 One-Family Residence District
- § 11. Amendment to § 285-16 R-5 One-Family Residence District
- § 12. Amendment to § 285-16.1 R-5/LTF One-Family/Limited Two-Family Residence District
- § 13. Amendment to § 285-16.2 R-5/LMF One-Family/Limited Multifamily Residence District
- § 14. Amendment to § 285-17 M-6 Multi-Family Residence District
- § 15. Amendment to § 285-18 M-10 Multi-Family Residence District
- § 16. Amendment to § 285-19 M-14 Multi-Family Residence District
- § 17. Amendment to § 285-20 M-22 Multi-Family Residence District
- § 18. Amendment to § 285-21 M-25 Multi-Family Residence District
- § 19. Amendment to § 285-22 M-174 Multi-Family Residence District
- § 20. Amendment to § 285-22.1 M-SH-62 Multi-Family Senior Housing District
- § 21. Amendment to § 285-23 PH Scatter-Site Housing District
- § 22. Amendment to § 285-24 PUD Planned Unit Development District
- § 23. Amendment to § 285-25 OB Office Building District
- § 24. Amendment to § 285-26 OB-1 Office Building District
- § 25. Amendment to § 285-27 LOB Limited Office Building District
- § 26. Amendment to § 285-28 DS Designed Shopping District

- § 27. **Amendment to § 285-28.1 PED Planned Economic Development District**
- § 28. **Amendment to § 285-29.1 CA Central Avenue Mixed-Use Impact District**
- § 29. **Amendment to § 285-29.2 HC Hartsdale Center District**
- § 30. **Amendment to § 285-30 CB Close Business District**
- § 31. **Amendment to § 285-31 IB Intermediate Business District**
- § 32. **Amendment to § 285-32 LI Light Industrial District**
- § 33. **Amendment to § 285-33 GI General Industrial District**
- § 34. **Amendment to § 285-34 PD Nonresidential Planned Development District**
- § 35. **Amendment to § 285-35 UR Urban Renewal District**
- § 36. **Amendment establishing § 285-37.2 Solar Energy Systems**
- § 37. **Amendment to § 285-53 Approving Agencies**
- § 38. **Supersession.**
- § 39. **Severability.**
- § 40. **Effective Date.**

§ 1. Title.

This law is entitled “A local law amending Section 285, of the Code of the Town of Greenburgh, entitled “Zoning,” as it relates to Solar Energy Systems.

§ 2. Legislative Findings and Intent.

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to amend Chapter 285 of the Code of the Town of Greenburgh to: (1) provide a regulatory framework for the designation of properties potentially suitable for the location, construction, and operation of Solar Energy Systems; (2) advance local and State sustainability initiatives in accordance with the 2016 Comprehensive Plan; and (3) mitigate the impacts of Solar Energy Systems on environmental resources such as open spaces, woodlands, wetlands/watercourses, steep slopes, wildlife, and other protected resources.

§ 3. Amendments to Section 285-5.

Section 285-5 of the Code of the Town of Greenburgh is hereby amended as follows:

285-5 Definitions.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades or roofing materials, which produce electricity for onsite consumption, which shall also include Rooftop or Building-Mounted Solar Energy Systems.

FACILITY AREA

The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

FLUSH-MOUNTED SOLAR PANEL

A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

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, which generates electricity for onsite or offsite consumption. A solar parking canopy is one example of such a system.

QUALIFIED SOLAR INSTALLER

A person, corporation, or entity that 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, subject to a current and valid Westchester County Home Improvement License (for residential installations).

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM

A Solar Energy System in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames.

SCREENING

Visual shielding that:

- (1) Breaks up the visible area of a project;
- (2) Mitigates adverse aesthetic impacts on views from residences, public rights-of-way, public parks, and other public lands; and
- (3) Integrates the project with the surrounding landscape; but does not require a total visual barrier of the project.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade, including the orientation of streets and parcels to the sun so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ACCESSORY USE

Solar Energy Systems accessory to the principal land use, which may supply energy for the principal structure or structures on the site or for off-site uses.

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, the purpose of which is to secure the right to receive solar access across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use and which, for purposes of this section, are classified as impervious surfaces. The term includes, but is not limited to, solar collectors and solar energy equipment. For the purposes of this section, a Solar Energy System does not include any system with only a solar collector of four (4) square feet or less in surface area. The project 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, Tier 3, or Tier 4 Solar Energy System as follows:

(1) Tier 1 Solar Energy Systems are residential and non-residential Rooftop or Building-Mounted Solar Energy Systems, Building-Integrated Solar Energy Systems, and Solar Thermal Systems, which constitute a Solar Accessory Use.

(2) Tier 2 Solar Energy Systems are residential ground-mounted Solar Energy Systems which constitute a Solar Accessory Use, and where the total surface area of all solar panels on the lot is to be factored into the maximum permitted accessory building coverage of the lot.

(3) Tier 3 Solar Energy Systems are non-residential ground-mounted Solar Energy Systems which constitute a Solar Accessory Use, and where the total solar module surface area: (1) on lots up to 20,000 sq. ft. in area – does not exceed 10% of the gross lot area or 1,500 square feet, whichever is greater; (2) on lots from 20,001 sq. ft. to 40,000 sq. ft. in area – does not exceed 8% of the gross lot area or 2,000 square feet, whichever is greater; (3) on lots from 40,001 sq. ft. to 80,000 sq. ft. in area – does not exceed 5% of the gross lot area or 2,500 square feet, whichever is greater; and (4) on lots of 80,001 and greater in area – 2.5% of the gross lot area or 4,000 square feet, whichever is greater. Systems exceeding these size limitations may be permitted, through the issuance of a Special Use Permit and Site Plan Approval granted by the Planning Board, based on the specific, unique characteristics of the property.

(4) Tier 4 Solar Energy Systems are systems that are not Tier 1, Tier 2, or Tier 3 Solar Energy Systems, where the minimum lot size is 4 acres, or which constitute a Solar Principal Use.

SOLAR MODULE SURFACE AREA

The aggregate square footage of all solar panels part of a Solar Energy System installation.

SOLAR PANEL

A photovoltaic device capable of collecting and directly converting solar energy into electricity. May also be referred to as "solar collector."

SOLAR PRINCIPAL USE

Any ground-mounted Solar Energy Systems that are a principal use on the lot, designed for providing energy to off-site uses.

SOLAR THERMAL SYSTEM

A Solar Energy System that directly heats air, water, or other liquids or gasses using sunlight. The heated air, water, or other liquids or gasses is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

§ 4. Amendments establishing § 285-9.1 Solar District (SD) Zone

Section 285 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-9.1. Solar District (SD) Zone. A Solar District shall be an overlay zone over any other zones allowed in the Town, subject to § 285.37.2G

§ 5. Amendments to Chapter 285-10: R-40 One-Family Residence District.

Section 285-10 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-10A(3)(o) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-10A(4)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 6. Amendments to Chapter 285-11: R-30 One-Family Residence District.

Section 285-11 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-11A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 7. Amendments to Chapter 285-12: R-20 One-Family Residence District.

Section 285-12 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-12A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 8. Amendments to Chapter 285-13 R-15 One-Family Residence District.

Section 285-13 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-13A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 9. Amendments to Chapter 285-14 R-10 One-Family Residence District.

Section 285-14 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-14A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 10. Amendments to Chapter 285-15 R-7.5 One-Family Residence District.

Section 285-15 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-15A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 11. Amendments to Chapter 285-16 R-5 One-Family Residence District.

Section 285-16 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-16A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 12. Amendments to Chapter 285-16.1 R-5/LTF One-Family/Limited Two-Family Residence District.

Section 285-16.1 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-16.1A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 13. Amendments to Chapter 285-16.2 R-5/LMF One-Family/Limited Multifamily Residence District.

Section 285-16.2 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-16.2A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 14. Amendments to Chapter 285-17 M-6 Multi-Family Residence District.

Section 285-17 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-17A(3)(b)[9] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-17A(4) Uses under special permit by the Town Board.

§ 285-17A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-17A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 15. Amendments to Chapter 285-18 M-10 Multi-Family Residence District.

Section 285-18 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-18A(3)(b)[10] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-18A(4) Uses under special permit by the Town Board.

§ 285-18A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-18A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 16. Amendments to Chapter 285-19 M-14 Multi-Family Residence District.

Section 285-19 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-19A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 17. Amendments to Chapter 285-20 M-22 Multi-Family Residence District.

Section 285-20 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-20A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 18. Amendments to Chapter 285-21 M-25 Multi-Family Residence District.

Section 285-21 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-21A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 19. Amendments to Chapter 285-22 M-175 Multi-Family Residence District.

Section 285-22 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-22A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 20. Amendments to Chapter 285-22.1 M-SH-62 Multi-Family Senior Housing District.

Section 285-22.1 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-22.1B(2)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-22.1B(3) Uses under special permit by the Town Board.

§ 285-22.1B(3)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-22.1B(3)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 21. Amendments to Chapter 285-23 PH Scatter-Site Housing District.

Section 285-23 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-23A(3)(b)[8] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-23A(4) Uses under special permit by the Town Board.

§ 285-23A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-23A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 22. Amendments to Chapter 285-24: Planned Unit Development District.

Section 285-24 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-24B(1)(h) Uses under special permit by the Town Board.

§ 285-24B(1)(h)[1] Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-24B(1)(h)[2] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 23. Amendments to Chapter 285-25: OB Office Building District.

Section 285-25 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-25A(3)(n) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-25A(4)(n) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-25A(5)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 24. Amendments to Chapter 285-26: OB Office Building District-1.

Section 285-26 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-26A(3)(f) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-26A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-26A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-26A(5) Uses under special permit by the Planning Board.

§ 285-26A(5)(a) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 25. Amendments to Chapter 285-27 LOB Limited Office Building District.

Section 285-27 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-27A(3)(m) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-27A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-27A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-27A(5)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 26. Amendments to Chapter § 285-28 DS Designed Shopping District.

Section 285-28 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-28B(3)(m) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28B(4)(i) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-28B(4)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28B(5)(c) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-28B(5)(d) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 27. Amendments to Chapter 285-28.1 PED Planned Economic Development District.

Section 285-28.1 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-28.1C(3)(l) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28.1C(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28.1C(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 28. Amendments to Chapter 285-29.1 CA Mixed-Use Impact District.

Section 285-29.1 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-29.1B(5.1)(b)[11] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(5.2)(d) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-29.1B(5.2)(e) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(a)[8] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(b)[6] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(c)[11] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(d)[5] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 29. Amendments to Chapter 285-29.2 HC Hartsdale Center District.

Section 285-29.2 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-29.2B(2)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.2B(3)(i) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.2B(4) Uses under special permit by the Town Board.

§ 285-29.2B(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-29.2B(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 30. Amendments to Chapter 285-30 CB Close Business District.

Section 285-30 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-30A(3)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-30A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-30A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-30A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 31. Amendments to Chapter 285-31 IB Intermediate Business District.

Section 285-31 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-31A(2)(j) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-31A(2)(k) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-31A(3)(g) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-31A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-31A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 32. Amendments to Chapter 285-32 LI Light Industrial District.

Section 285-32 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-32A(3)(g) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-32A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-32A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-32A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 33. Amendments to Chapter 285-33 GI General Industrial District.

Section 285-33 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-33A(3) Accessory uses. All accessory uses permitted in the LI District, as specified in § 285-32A(23) of this chapter.

§ 285-33A(4)(c) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-33A(4)(d) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-33A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 34. Amendments to Chapter 285-34 PD Nonresidential Planned Development District.

Section 285-34 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-34B(2)(b)[2] Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-34B(2)(b)[3] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-34B(2)(c)[7] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-34B(2)(d)[2] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 35. Amendments to Chapter 285-35 UR Urban Renewal District.

Section 285-35 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-35B(3) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-35B(4) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-35C(3) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-35D(6)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 36. Amendments establishing § 285-37.2 Solar Energy Systems

Section 285 of the Code of the Town of Greenburgh is hereby amended as follows:

§ 285-37.2. Solar Energy Systems.

- A. Statement of purpose and intent. Solar energy is a renewable and non-polluting energy resource that can reduce fossil fuel emissions and lessen a municipality's energy load. Energy generated from Solar Energy Systems can be used to offset energy demand on the grid. The use of Solar Energy Systems for the purpose of providing electricity and energy for heating and/or cooling is both a necessary and priority component of the Town of Greenburgh's current and long-term sustainability goals. It is also consistent with the commitment of the Town of Greenburgh to be a "climate smart" community. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight, while minimizing disturbance to trees, shrubs, and natural habitats and minimizing adverse impacts on neighboring properties, so as to preserve the Town's aesthetic qualities while protecting the public health, safety, and welfare. Two of the many important environmental resources of the Town are its trees and wooded areas.

Another important resource of the Town is its visual environment. 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.

B. Applicability.

- (1) The requirements of this section shall apply to all Solar Energy Systems and equipment installations permitted, installed, or modified in the Town of Greenburgh after the effective date of this section, excluding general maintenance and repair.
- (2) Solar Energy System installations for which a valid Building Permit has been issued before 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 five percent (5%) of the original area of the Solar Energy System (exclusive of any fencing) shall be subject to this section.

C. General Requirements.

- (1) A Building Permit and any related permits shall be required for the installation or modification of all Solar Energy Systems.
- (2) Issuance of permits and approvals shall include review pursuant to the State Environmental Quality Review Act, as applicable.
- (3) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Building Code"), the New York State Energy Conservation Code (the "State Energy Code") as well as may be required by Public Service Commission regulations.
- (4) Safety considerations.
 - (a) All Solar Energy Systems and solar energy equipment shall be certified under the applicable electrical and/or building codes as required.
 - (b) All 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 Building Inspector and appropriate Fire Department/District.
 - (c) If storage batteries are included as part of the Solar Energy System,

they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state, or county laws or regulations.

- (d) All Solar Energy Systems and solar energy equipment shall be permitted only if designed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Building Code"), the New York State Energy Conservation Code (the "State Energy Code") as well as may be required by Public Service Commission regulations and shall not present any unreasonable safety risks, including, but not limited to, the following factors:

- [1] Weight load.
- [2] Wind resistance.
- [3] Ingress or egress in the event of fire or other emergency.
- [4] Appropriate access to public water in the event of fire or other emergency.

The Building Inspector shall require certification from a New York State licensed professional engineer or registered architect that the system design conforms with applicable codes, regulations, and industry standards, and that the system has been properly installed and anchored to prevent flotation, collapse, or undesired movement.

- (5) Solar Energy System installations must be performed by a qualified solar installer.
- (6) All on-site utility lines shall be placed underground with the exception of the main service connection at the utility company right-of-way and any new utility interconnection equipment, including, without limitation, any poles, with new easements and right-of-way.
- (7) All Solar Energy Systems and associated solar energy equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and/or public or private roadways.
- (8) All 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.
- (9) Free-standing mechanical and/or electrical equipment shall be enclosed by a minimum four-foot-high fence and be in conformance with the requirements of the National Electric Code, with a self-locking gate to

prevent unauthorized access. Any structures for storage batteries shall be enclosed with fencing pursuant to the requirements of Section 285-37.1 of this chapter.

- D. 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 compliance with the following conditions:

(1) Building-Integrated Solar Energy Systems.

- (a) Building-Integrated Solar Energy Systems shall incorporate the following design requirements:

[1] Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

[2] Solar panels shall have anti reflective coating(s).

[3] Building-Integrated Solar Energy Systems shall comply with the height limitations of the zoning district in which they are situated, as applicable.

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

- E. Permitting Requirements for Tier 2 Solar Energy Systems. Tier 2 Solar Energy Systems shall be permitted as accessory uses in all of the zoning districts in the Town, excluding the Planned Unit Development (PUD) District, on lots containing only a lawfully existing single-family or multi-family dwelling unit or units, or in connection with a building permit for construction of a new single-family or multi-family dwelling(s), subject to the issuance of a Building Permit and compliance with the following conditions:

(1) Coating. Solar panels shall have anti reflective coating(s).

(2) Lot size. None specified.

(3) Setbacks. Tier 2 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.

(4) Height. Tier 2 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.

- (5) Location. Tier 2 Solar Energy Systems shall only be installed within side or rear yards.
- (6) Screening and visibility.
- (a) Tier 2 Solar Energy Systems shall be screened to the maximum extent reasonably possible from adjacent properties and public or private roadways through the use of architectural features, landscaping, earth berms, fencing, or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation of the solar collectors. A landscaping and screening plan shall be submitted at the time of Building Permit submission which specifies the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading to be used to screen and/or mitigate any adverse aesthetic impacts of the system. A maintenance plan outlining how the required screening will be maintained for the duration of the system shall be provided by the Applicant at the time of Building Permit submission.
 - (b) Solar energy equipment shall be located in a manner so as to reasonably avoid and/or minimize the blockage of views from, or shading of, surrounding properties, while still providing adequate solar access.
 - (c) Tree removal shall be subject to Chapter 260 of the Town Code, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.
 - (d) The clearing of vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Tier 2 Solar Energy System, to the satisfaction of the Town Forestry Officer. Solar Energy Systems shall not be sited within any required or designated buffer areas.
- (7) Fencing. Tier 2 Solar Energy Systems shall be appropriately fenced, in conformance with the requirements of the National Electric Code.
- (8) Coverage. The area beneath ground-mounted solar collectors and solar energy equipment shall be included in calculating maximum permitted accessory building coverage for the applicable zoning district. These calculations shall, however, exclude pervious open space between arrays or rows of solar panels.
- (9) Stormwater management. The Applicant shall ensure that there is no net increase in stormwater runoff from the site resulting from the system installation, in accordance with the requirements of Chapter 248 of the Code of the Town of Greenburgh. Further, the Applicant shall follow

the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.

F. Permitting Requirements for Tier 3 Solar Energy Systems. Tier 3 Solar Energy Systems (non-residential ground-mounted systems) shall be permitted in the following zoning districts in the Town (CB, DS, CA, HC, UR, OB, OB-1, LOB, IB, PD, PED, LI, and GI) as accessory uses, subject to the issuance of a Building Permit and compliance with the following conditions:

- (1) Coating. Solar panels shall have anti reflective coating(s).
- (2) Lot size. None specified.
- (3) Setbacks. Tier 3 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.
- (4) Height. Tier 3 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.
- (5) Location. Tier 3 Solar Energy Systems shall be permitted in all yards, subject to compliance with the setback requirements of the zoning district in which they are situated.
- (6) Screening and visibility.
 - (a) Tier 3 Solar Energy Systems shall be screened to the maximum extent reasonably possible from public roadways and adjacent properties through the use of architectural features, earth berms, landscaping, fencing, or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation of the solar collectors. A landscaping and screening plan shall be submitted at the time of application submittal which specifies the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading to be used to screen and/or mitigate any adverse aesthetic impacts of the system. A maintenance plan outlining how the required screening will be maintained for the duration of the system shall be provided by the Applicant, along with a maintenance bond to cover the cost of replacement, should the Applicant fail to maintain the required screening pursuant to the maintenance plan, to the satisfaction of the Building Inspector, Town Forestry Officer, and Town Attorney. The maintenance plan and bond shall be provided at the time of Building Permit submission.

- (b) Solar energy equipment shall be located in a manner so as to reasonably avoid and/or minimize the blockage of views from, or shading of, surrounding properties, while still providing adequate solar access.
 - (c) Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.
 - (d) The clearing of vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Tier 3 Solar Energy System. Tier 3 Solar Energy Systems shall not be sited within any required buffer areas.
- (7) Fencing. Tier 3 Solar Energy Systems shall be appropriately fenced, in conformance with the requirements of the National Electric Code.
- (8) Coverage. The area beneath ground-mounted solar collectors and solar energy equipment shall be included in calculating maximum permitted accessory building coverage for the applicable zoning district. These calculations shall, however, exclude pervious open space between arrays or rows of solar panels. The total surface area of all solar panels on the lot shall not exceed: (1) on lots up to 20,000 sq. ft. in area – 10% of the gross lot area or 1,500 square feet, whichever is greater; (2) on lots from 20,001 sq. ft. to 40,000 sq. ft. in area – 8% of the gross lot area or 2,000 square feet, whichever is greater; (3) on lots from 40,001 sq. ft. to 80,000 sq. ft. in area – 5% of the gross lot area or 2,500 square feet, whichever is greater; and (4) on lots of 80,001 and greater in area – 2.5% of the gross lot area or 4,000 square feet, whichever is greater, unless a Special Use Permit is granted by the Planning Board to allow a greater amount, pursuant to the standards outlined within this section, as well as the general standards outlined in Section 285-36T(2)(a) through (f) of this Chapter.
- (9) Stormwater management. The Applicant shall ensure that there is no net increase in stormwater runoff from the site resulting from the system installation, in accordance with the requirements of Chapter 248 of the Code of the Town of Greenburgh. Further, the Applicant shall follow the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.
- (10) In the event a Tier 3 Solar Energy System would result in the need for a reduction in the number of off-street parking spaces to an extent which necessitates an Area Variance from the Zoning Board of Appeals, or a Shared Parking Reduction from the Planning Board pursuant to Section 285-38D(5) of this Chapter, the Applicant shall be required to obtain such approval prior to filing for a Building Permit.

- (11) Tier 3 Solar Energy Systems proposed to exceed the maximum permitted size as established under §285-37.2F(8) shall require the issuance of a Special Use Permit from the Planning Board, and shall comply with the standards outlined within this section, as well as the general standards outlined in Section 285-36T(2)(a) through (f) of this Chapter. Additionally, such systems require Site Plan Approval from the Planning Board, in accordance with Article VIII hereof. Special Use Permit and Site Plan applications shall be submitted to the Planning Board, in writing, on forms prescribed by the Department of Community Development and Conservation. The Planning Board may also require the submittal of any other pertinent information as may be necessary to determine and provide for the proper consideration of the Special Use Permit and Site Plan applications.
- (12) Special use permit. The Planning Board shall have authority over the Special Use Permit. The following Special Use Permit standards shall apply:
- (a) Lot size. None specified.
 - (b) Setbacks. Tier 3 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.
 - (c) Height. Tier 3 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.
 - (d) Buffers and screening:

[1] A minimum ten-foot (10') wide buffer, consisting of natural vegetation, shall be provided around all mechanical equipment, associated structures, and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways. Noninvasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, and wildflowers must be used in the vegetative buffer. Existing noninvasive trees and vegetation shall be maintained within such buffer areas except where dead, diseased, or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy vegetative buffer requirements, as applicable. If existing trees and vegetation must be removed, the Applicant shall obtain a Tree Removal Permit from the Planning Board pursuant to the requirements of Chapter 260 of the Code of the Town of Greenburgh, as applicable, with input from the Town Forestry Officer, and new plantings shall be provided within the buffer to satisfy the replanting requirements of that chapter. The

vegetative buffer may be situated within the required yard setback and shall be maintained for the life of the system.

[i] The Applicant shall submit a screening and landscaping plan to demonstrate adequate measures to screen the system 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 and private roadways and adjacent properties. The Planning Board may request a colored rendering of the plan, at its discretion.

[ii] 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.

[2] When a Tier 3 Solar Energy System site adjoins property zoned for residential use and requires the issuance of a Special Use Permit and Site Plan approval, an increase in the required vegetative buffer area may be required by the Planning Board between the residential lot(s) and site improvements associated with the system. If required, the additional buffer area shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the system from residentially zoned sites. The species type, location, and planted height of such landscaping shall be subject to the satisfaction of the Planning Board following a written recommendation from the Town Forestry Officer.

[3] Depending upon the scope and potential significance of the visual impacts, the Planning Board shall have the right to require a visual assessment analysis, including photo simulations of the proposed project from key viewpoints, which shall include, but not be limited to, public roads, scenic viewsheds, parks, protected open space, buildings, and properties listed on the state and/or National Registers of Historic Places, and any additional important resource or publicly accessible location.

(e) Vegetative ground cover required.

[1] Where natural pervious surfaces are to be situated under and between solar panels, noninvasive ground cover that is pollinator-friendly, low-maintenance, drought-resistant, and non-fertilizer-dependent, must be installed. Where practical, these areas shall be graded and/or planted in such a way so as to perform a function similar to rain gardens, capable of storing and

absorbing stormwater runoff.

[2] Any natural pervious surfaces associated with the project area shall be seeded promptly following completion of construction in such a manner so as to reduce invasive weed growth and erosion in the project area.

[3] The use of “selective” herbicides and pesticides may be applied as specified in Section 280-7A(1)(d) of the Code of the Town of Greenburgh, and shall be limited to the maximum extent practical, with natural alternative solutions preferred.

(f) Coating. The solar panels shall have anti reflective coating(s).

(g) Artificial lighting. Artificial lighting of the Solar Energy Systems and solar energy equipment shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. All such lighting shall be dark-sky compliant.

(h) Trees. Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.

(i) Vegetation removal. The cutting of trees and other vegetation shall be limited to that which is deemed necessary by the project team, which shall include a professionally certified arborist, and the Town Forestry Officer, for the construction, operation and maintenance of the Tier 3 Solar Energy System. Tier 3 Solar Energy Systems shall not be sited within any required buffer areas.

(j) Fencing.

[1] All electrical and control equipment shall be secured to prevent unauthorized access. An emergency access lock box shall be provided for emergency responder entry.

[2] Where deemed appropriate by the Planning Board, the Planning Board may require Tier 3 Solar Energy Systems to be enclosed by fencing which shall be located on the interior of the required vegetative buffer. If required, the Planning Board shall review and approve the type and height of fencing based on the location and screening needs.

[3] If required, fencing shall be wildlife friendly and shall have five-inch by twelve-inch (5” x 12”) openings at ground level spaced no more than 100 feet apart to allow unencumbered travel by small animals.

- (k) Underground requirements. All utility lines located outside of the facility's fenced perimeter boundary 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 utility interconnection equipment, including, without limitation any poles, with new easements and right-of-way provided, as applicable.
- (l) Access. The Applicant shall indicate on the site plan all existing and proposed access routes to the project area, including road, electric power, emergency access, land-based telephone line connections, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and when determined acceptable by the Planning Board.
- (m) Driveways. Vehicular driveways within the site shall be designed to minimize the extent of impervious materials and soil compaction, with pervious surfaces being highly preferred.
- (n) Signs. All electrical and control equipment shall be labeled. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment, except:
 - [1] Manufacturer's/installer's identification and/or facility name;
 - [2] Appropriate safety and warning signs and placards;
 - [3] Signs that may be required by a federal, state, or county agency or regulations; and
 - [4] Signs that provide a twenty-four-hour emergency contact phone number.
 - [5] Said information shall be depicted on each sign, within an area no more than eight (8) square feet and with all lettering no less than one inch (1") in size.
- (o) When energy storage batteries are included as part of the Tier 3 Solar Energy System, they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state or county laws or regulations.
- (p) Land ownership. In the case of an application for a Tier 3 Solar Energy System to be located on private lands owned by a party other than the Applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Building Inspector.

(q) Proof of insurance. The Applicant and the owner of the property where the Tier 3 Solar Energy System is to be located shall maintain insurance in a sufficient dollar amount to cover potential personal and property damage associated with operation of the system.

(r) Abandonment and decommissioning.

[1] Purpose. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Greenburgh, by requiring abandoned Solar Energy Systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the solar industry, may create an environment for systems to be abandoned, thereby resulting in a negative visual impact on the Town. Abandoned Solar Energy Systems may become unsafe by reasons of their energy-producing capabilities and serve as an attractive nuisance.

[2] Abandonment.

[i] A Tier 3 Solar Energy System shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one (1) year. A Tier 3 Solar Energy System shall also be deemed abandoned if the facility is not completed and functioning within three (3) years of being issued special use permit and site plan approvals.

[ii] Extension of time. The time at which a Tier 3 Solar Energy System shall be deemed abandoned may be extended by the Planning Board for up to, but no more than, two (2) additional years, provided that the system owner presents to the Planning Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at not less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the Tier 3 Solar Energy System owner prior to abandonment as defined herein. Extenuating circumstances as to why the system has not been operating or why construction has not been completed may be considered by the Planning Board in determining whether or not to grant an extension.

[3] Removal required. A Tier 3 Solar Energy System which has been abandoned shall be decommissioned and removed. The system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one (1) year of abandonment.

Removal of the system shall be in accordance with the approved decommissioning plan.

[4] Decommissioning plan. All applications for a Tier 3 Solar Energy System requiring a Special Use Permit and Site Plan Approval from the Planning Board shall be accompanied by a decommissioning plan signed by the owner and/or operator of the system. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, and shall, at a minimum, include the following:

[i] An estimate of the anticipated operational life of the system.

[ii] A schedule providing the timeframe over which decommissioning will occur and for completion of site restoration work, which shall be within six (6) 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 and native tree species.

[iii] Identification of the party responsible for decommissioning.

[iv] Description of any agreement with the landowner regarding decommissioning.

[v] A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the Solar Energy System and any ancillary structures, as well as any necessary site remediation or restoration.

[vi] A financial plan to ensure that financial resources will be available to fully decommission the site.

[vii] Removal of aboveground and below-ground equipment, structures, and foundations.

[viii] Disposal of all solid and hazardous waste in accordance with local, county, state, and federal waste disposal regulations.

(s) Financial security.

[1] The Applicant shall submit a cash deposit, bond, or other form of security in an amount and form acceptable to the Town Attorney and Town Engineer to ensure the good-faith performance of the terms and conditions of the Special Permit

issued pursuant hereto, and 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 Applicant shall submit a cost estimate detailing the estimated cost of installing the Solar Energy System according to the Special Permit, the estimated cost of decommissioning the Solar Energy System, the estimated salvage value of the Solar Energy System and the anticipated life span of the solar energy system to the Town Engineer for review and approval at the same time the decommissioning plan is submitted. The decommissioning amount may be reduced by the amount of the estimated salvage value of the Solar Energy System, at the discretion of the Town Engineer and Town Attorney. The amount of the security may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

[2] 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.

[3] In the event of default or abandonment of the Tier 3 Solar Energy System, the system shall be decommissioned as set forth in Subsection (r) above.

(t) Annual report. The Tier 3 Solar Energy System owner shall, on a yearly basis, provide the Town with a written report identifying the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the system and/or the land upon which the system is located and shall identify any change in the party responsible for the decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year. Every third year, to coincide with the filing evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the system. The Town may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation of this section.

(u) Decommissioning and removal by Town. If the owner or operator of the Tier 3 Solar Energy System fails to remove the system in accordance with the requirements of this section within ninety (90) days of the proposed date of decommissioning, as specified in the decommissioning plan, and provided a notice of extension has not been granted by the Planning Board, the Town may enter the property and physically remove the installation at the expense of the property owner or against any financial surety assigned to the Town as provided for above. The following procedure shall be used for proceeding with Town removal.

[1] Upon a determination of the Building Inspector that a Tier 3 Solar Energy System has been abandoned, the Building Inspector shall notify the system operator, landowner, and permittee by certified mail:

[i] In the case of a facility under construction, to complete construction and installation of the facility within 180 days;
or

[ii] In the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of its rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit approval.

[2] Being so notified, if the system owner, landowner, and/or permittee fails to perform as directed by the Building Inspector within the 180-day period, the Building Inspector shall notify the system owner, landowner, and permittee, by certified mail, that the system has been deemed abandoned and the Town intends to revoke the special use permit within sixty (60) days of mailing of said notice. The notice shall also state that the permittee may appeal the Building Inspector's determination of abandonment to the Zoning Board of Appeals and request a hearing on the matter.

[3] Said appeal and request for hearing must be made and received by the Secretary to the Zoning Board of Appeals within twenty (20) days of mailing the notice. Failure by the permittee to submit an appeal and request for hearing within the twenty (20) day period will result in the special use permit being deemed revoked as stated herein.

[4] In the event the permittee appeals the determination of the Building Inspector and requests a hearing, the Zoning Board of

Appeals shall schedule and conduct said hearing within sixty (60) days of receiving the appeal and request. In the event a hearing is held, the Zoning Board of Appeals shall determine whether the system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Zoning Board of Appeals, or whether to revoke the permit and order removal of the system.

[5] Upon determination by the Building Inspector or Zoning Board of Appeals that a Special Use Permit has been revoked, the decommissioning plan must be implemented and the system removed within one (1) year of having been deemed abandoned, or the Town may cause the removal at the system owner's and/or landowner's expense. If the system owner and/or landowner fail to fully implement the decommissioning plan within one (1) year of abandonment, the Town may collect the required surety and use said funds to implement the decommissioning plan.

(v) Removal by Town and reimbursement of Town expenses. Any costs and/or expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Tier 3 Solar Energy System, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

(w) Prior to the scheduled removal of a Tier 3 Solar Energy System as part of decommissioning or for abandoned systems, a demolition permit for removal activities shall be obtained from the Building Inspector. Removal shall include solar collectors, cabling, electrical components, accessory structures, and any associated structures below grade.

(x) The Planning Board may modify or waive any of the above requirements wherever, in its opinion, such modification or waiver will be consistent with the intent of this section and the goal of promoting the public health, safety, comfort, convenience, and general welfare of the community. The findings for granting such modification or waiver shall become a part of the public record.

(13) Site Plan application. In addition to the other Site Plan application requirements and procedures of Article VIII of this chapter, the following Site Plan application requirements shall apply:

(a) The application shall include the following information:

- [1] 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.
- [2] 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.
- [3] Nameplate capacity of the Solar Energy System (as expressed in MW).
- [4] Zoning district designation of the parcel(s) of land comprising the project site.
- [5] Property lines and physical features, including roads, for the project site.
- [6] Adjacent land uses on contiguous parcels within a 200-foot radius of the project site boundary.
- [7] Proposed changes to the landscape of the site, including site grading, vegetation removal and planting, the removal of any regulated trees pursuant to Chapter 260 of the Code of the Town of Greenburgh, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- [8] Erosion and sediment control and stormwater management plans prepared to NYS State Department of Environmental Conservation standards, if applicable, and to such standards as required under Chapter 248 of the Code of the Town of Greenburgh, ensuring no net increase in stormwater runoff from the site. Further, the Applicant shall follow the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.
- [9] 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 overcurrent devices.

[10] A preliminary equipment specification sheet that documents all proposed solar panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.

[11] A property operation and maintenance plan which describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming of vegetation.

(b) As part of the formal application submittal, engineering documents must be signed and sealed by a NYS licensed professional engineer or NYS registered architect.

G. Permitting Requirements for Tier 4 Solar Energy Systems.

(1) The Town Board finds it 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 petitions for Tier 4 Solar Energy System Overlay Zones (“Solar Overlay Zone”) by legislative amendment of the Town's Zoning Map. All Zoning Districts within the Town are eligible hosts for this Solar Overlay Zone, subject to meeting certain minimum standards. The Town Board, as a legislative body, has broad discretion in amending the Zoning Map and shall take the preservation and use of environmental resources, as well as any other factors it deems pertinent, into consideration in determining whether the Town Board will entertain an application for the creation of a Solar Overlay Zone. In evaluating this balance, the Town Board will, all other things being equal, prioritize paved parking areas over natural treeless areas, and will prioritize natural treeless areas over treed areas, for the installation of Tier 4 Solar Energy Systems.

In the legislative intent of Chapter 260, entitled, Trees, Community Management, the Town Board has found that trees are necessary to protect the health, safety, environment, ecosystems and general welfare of the inhabitants and properties in the Town of Greenburgh. Trees provide numerous environmental benefits, wildlife habitat, stormwater management, and generally enhance the quality of life and values of properties within the Town. 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 IX of the Town Zoning Ordinance and shall include a detailed site plan at the time of submission. Prior to the submission of

a Zoning Map petition, the Applicant shall meet in person with the Town Board at a regularly scheduled work session as part of a presubmission conference. The purpose of such conference shall be to discuss the proposed use in the context of the potential site and provide the Town Board with an understanding of how the petition is consistent and/or inconsistent with the relevant sections of this ordinance.

- (3) Subsequent to an amendment of the Zoning Map pursuant to this section, Tier 4 Solar Energy Systems are permitted as principal uses which, for the purposes of this section, shall be subject to the impervious surface coverage requirements of the underlying zoning district, and may be permitted through the issuance of a Special Use Permit, pursuant to the standards outlined below, and Site Plan approval under Article VIII of this chapter, respectively. Following a presubmission conference, Applicants shall be permitted to submit site plan and special use permit applications in connection with the Zoning Map petition, for concurrent referrals to the Planning Board.
- (4) It shall be a condition of every granting of a Solar Overlay Zone, whether stated or not, that if an application for Site Plan and Special Use Permit approval, certified as complete by the Commissioner of the Department of Community Development and Conservation, is not presented to the Town Board for approval within six (6) months of the date of approval of the Solar Overlay Zone designation, or if no development is initiated on the site within twelve (12) months of the date of Site Plan and Special Use Permit approval of the Solar Energy System by the Town Board, the zoning of said parcel shall revert back to the zoning of said parcel prior to its change to a Solar Overlay Zone, unless the Town Board grants an extension of time to file an application for Site Plan and Special Use Permit approval, or grants an extension of time to initiate development of the site.
- (5) Special use permit. The Town Board, upon referral to the Planning Board for review and recommendation, shall have authority over the Special Use Permit. The following Special Use Permit standards shall apply:
 - (a) Lot size. The property on which the Tier 4 Solar Energy System is placed shall be a minimum of four (4) acres.
 - (b) Setbacks. Tier 4 Solar Energy Systems shall be setback at least 50 feet from all property lines, unless reduced by the Town Board (following a positive recommendation from the Planning Board) in instances where such setback reduction (not to be less than 10 ft. from any property line) is supported based on a written finding that topography and landscaping or other site conditions provide adequate screening.

- (c) Height. Tier 4 Solar Energy Systems shall be no more than 15 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt. Tier 4 Solar Energy Systems that are designed as a canopy over existing impervious surfaces or surfaces without vegetation that are used as parking lots may be up to 23 feet in height.
- (d) Multi-Phased developments. Following an initial Special Use Permit approved for a Tier 4 Solar Energy System, any subsequent expansion or additional phase of a Solar Energy System development proposal on the same site shall be evaluated by prioritizing paved parking areas over natural treeless areas, and prioritizing natural treeless areas over treed areas, however, in no instance shall the Solar Overlay Zone convey as-of-right expansions.
- (e) Buffers and screening:

[1] A minimum twenty five-foot (25') wide buffer, consisting of natural vegetation, shall be provided around all mechanical equipment, associated structures, and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways, unless reduced by the Town Board (following a positive recommendation from the Planning Board) in instances where such reduction is supported based on a finding that topography and landscaping or other site conditions provide adequate screening. Noninvasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, and wildflowers must be used in the vegetative buffer. Existing noninvasive trees and vegetation shall be maintained within such buffer areas except where dead, diseased, or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy vegetative buffer requirements, as applicable. If existing trees and vegetation must be removed, the Applicant shall obtain a Tree Removal Permit from the Town Board pursuant to the requirements of Chapter 260 of the Code of the Town of Greenburgh, as applicable, with input from the Town Forestry Officer, and new plantings shall be provided within the buffer to satisfy the replanting requirements of that chapter. The vegetative buffer may be situated within the required yard setback and shall be maintained for the life of the system.

[i] The Applicant shall submit a screening and landscaping plan to demonstrate adequate measures to screen the system 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. The Town Board may request a colored rendering of the plan, at its discretion.

[ii] 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.

[2] When a Tier 4 Solar Energy System site adjoins property zoned for residential use, an increase in the required vegetated buffer may be required by the Town Board between the residential lot(s) and site improvements associated with the system. If required, the additional buffer area shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the system from residentially zoned sites. The species type, location, and planted height of such landscaping shall be subject to the satisfaction of the Town Board.

[3] Depending upon the scope and potential significance of the visual impacts, the Town Board shall have the right to require a visual assessment analysis, including photo simulations of the proposed project from key viewpoints, which shall include, but not limited to, public roads, scenic viewsheds, parks, protected open space, buildings, and properties listed on the state and/or National Registers of Historic Places, and any additional important resource or publicly accessible location.

(f) Vegetative ground cover required.

[1] Natural pervious surfaces are to be situated under and between solar panels, with noninvasive ground cover that is pollinator-friendly, low-maintenance, drought-resistant, and non-fertilizer-dependent, to be installed. Where practical, these areas shall be graded and/or planted in such a way so as to perform a function similar to rain gardens, capable of storing and absorbing stormwater runoff.

[2] All natural pervious surfaces associated with the project area shall be seeded promptly following completion of construction in such a manner so as to reduce invasive weed growth and erosion in the project area.

[3] The use of “selective” herbicides and pesticides may be applied as specified in Section 280-7A(1)(d) of the Code of the Town of Greenburgh, and shall be limited to the maximum extent practical, with natural alternative solutions preferred.

- (g) Coating. The solar panels shall have anti reflective coating(s).
- (h) Artificial lighting. Artificial lighting of the Solar Energy Systems and solar energy equipment shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. All such lighting shall be dark-sky compliant.
- (i) Trees. Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.
- (j) Vegetation removal. The cutting of trees and other vegetation shall be limited to that which is deemed necessary by the project team, which shall include a professionally certified arborist, and the Town Forestry Officer, for the construction, operation and maintenance of the Tier 4 solar energy system. Solar Energy Systems shall not be sited within any required buffer areas.
- (k) Fencing.
 - [1] All electrical and control equipment shall be secured to prevent unauthorized access. An emergency access lock box shall be provided for emergency responder entry.
 - [2] All Tier 4 Solar Energy Systems shall be enclosed by fencing which shall be located on the interior of the required vegetative buffer. The Town Board shall review and approve the type and height of fencing based on the location and screening needs.
 - [3] The fencing shall be wildlife friendly and shall have five-inch by twelve-inch (5" x 12") openings at ground level spaced no more than 100 feet apart to allow unencumbered travel by small animals.
- (l) Underground requirements. All utility lines located outside of the facility's fenced perimeter boundary 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 utility interconnection equipment, including, without limitation any poles, with new easements and right-of-way provided, as applicable.
- (m) Access. The Applicant shall indicate on the site plan all existing and proposed access routes to the project area, including road, electric power, emergency access, land-based telephone line connections, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and when determined

acceptable by the Town Board.

- (n) Driveways. Vehicular driveways within the site shall be designed to minimize the extent of impervious materials and soil compaction, with pervious surfaces being highly preferred.
- (o) Signs. Tier 4 Solar Energy System owners shall be subject to the same signage requirements as outlined in Section 285-37.2(F)(12)(n).
- (p) When energy storage batteries are included as part of the Solar Energy System, they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state or county laws or regulations.
- (q) Land ownership. In the case of an application for a Tier 4 Solar Energy System to be located on private lands owned by a party other than the Applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Building Inspector.
- (r) Proof of insurance. The Applicant and the owner of the property where the Solar Energy System is to be located shall file with the Building Inspector proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation of the system.
- (s) Financial Security. Tier 4 Solar Energy Systems shall be subject to the same financial security requirements and conditions as outlined in Section 285-37.2(F)(12)(s).
- (t) Abandonment and decommissioning. Tier 4 Solar Energy Systems shall be subject to the same abandonment and decommissioning requirements and conditions as outlined in Section 285-37.2(F)(12)(r).
- (u) Annual report. Tier 4 Solar Energy System owner shall be subject to the same annual reporting requirements as outlined in Section 285-37.2(F)(12)(t).
- (v) Decommissioning and removal by Town. Tier 4 Solar Energy Systems shall be subject to the same conditions and requirements related to decommissioning and removal by the Town, as outlined in Section 285-37.2(F)(12)(u).
- (w) Removal by Town and reimbursement of Town expenses. Tier 4 Solar Energy Systems shall be subject to the same conditions and requirements related to system removal by the Town and

reimbursement of Town expenses, as outlined in Section 285-37.2(F)(12)(v).

- (x) Prior to the scheduled removal of a Tier 4 Solar Energy System as part of decommissioning or for abandoned systems, a demolition permit for removal activities shall be obtained from the Building Inspector. Removal shall include solar collectors, cabling, electrical components, accessory structures, and any associated structures below grade.
- (y) The Town Board may modify or waive any of the above requirements wherever, in its opinion, such modification or waiver will be consistent with the intent of this section and the goal of promoting the public health, safety, comfort, convenience, and general welfare of the community. The findings for granting such modification or waiver shall become a part of the public record.

(6) Site Plan application. Tier 4 Solar Energy System Applicants shall be subject to the Site Plan application requirements as outlined in Section 285-37.2(F)(13).

H. Recycling. Waste from end-of-life solar panels presents opportunities to recover valuable materials and create jobs through recycling. Diverting solar panels from landfills to recycling saves space in landfills in addition to capturing the value of the raw materials. In the event that recycling of solar panels becomes available within Westchester County, or within 25 miles of a project site, the project Applicant shall be required to recycle all materials associated with the Solar Energy System.

I. 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.

§ 37. Amendments to Chapter 285-53 Approving Agencies.

Section 285-53 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-53A The Town Board shall be the approving agency where a site plan application concerns property which is five acres or more in area, except for those applications filed pursuant to §§ 285-24, 285-34, 285-37.1D, and 285-37.2F of this chapter.

§ 285-53B Pursuant to § 274-a of the Town Law, the Town Board hereby delegates to the Planning Board the approval authority for all site plan applications which concern property less than five acres in area and for those applications filed pursuant to §§ 285-24, 285-34, 285-37.1D, and 285-37.2F of this chapter.

§ 38. Supersession:

Pursuant to New York Municipal Home Rule Law Section 22, this law is intended to supersede any other inconsistent provision of law.

§ 39. Severability:

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 40. Effective Date:

This law shall take effect immediately upon filing with the Secretary of State.



TOWN of GREENBURGH

Local Law No. 3 / 2024

A local law amending Chapter 285 of the Code of the Town of Greenburgh entitled “Zoning,” pursuant to New York State Constitution Article IX and New York Municipal Home Rule Law Section 10, New York Environmental Conservation Law Article 8 (SEQR).

BE IT ENACTED by the Town Board of the Town of Greenburgh:

- § 1. **Title.**
- § 2. **Legislative Findings and Intent.**
- § 3. **Amendment to § 285-5 Definitions.**
- § 4. **Amendment establishing § 285-9.1 Solar District (SD) Zone.**
- § 5. **Amendment to § 285-10 R-40 One-Family Residence District**
- § 6. **Amendment to § 285-11 R-30 One-Family Residence District**
- § 7. **Amendment to § 285-12 R-20 One-Family Residence District**
- § 8. **Amendment to § 285-13 R-15 One-Family Residence District**
- § 9. **Amendment to § 285-14 R-10 One-Family Residence District**
- § 10. **Amendment to § 285-15 R-7.5 One-Family Residence District**
- § 11. **Amendment to § 285-16 R-5 One-Family Residence District**
- § 12. **Amendment to § 285-16.1 R-5/LTF One-Family/Limited Two-Family Residence District**
- § 13. **Amendment to § 285-16.2 R-5/LMF One-Family/Limited Multifamily Residence District**
- § 14. **Amendment to § 285-17 M-6 Multi-Family Residence District**
- § 15. **Amendment to § 285-18 M-10 Multi-Family Residence District**
- § 16. **Amendment to § 285-19 M-14 Multi-Family Residence District**
- § 17. **Amendment to § 285-20 M-22 Multi-Family Residence District**
- § 18. **Amendment to § 285-21 M-25 Multi-Family Residence District**
- § 19. **Amendment to § 285-22 M-174 Multi-Family Residence District**
- § 20. **Amendment to § 285-22.1 M-SH-62 Multi-Family Senior Housing District**
- § 21. **Amendment to § 285-23 PH Scatter-Site Housing District**
- § 22. **Amendment to § 285-24 PUD Planned Unit Development District**
- § 23. **Amendment to § 285-25 OB Office Building District**
- § 24. **Amendment to § 285-26 OB-1 Office Building District**
- § 25. **Amendment to § 285-27 LOB Limited Office Building District**
- § 26. **Amendment to § 285-28 DS Designed Shopping District**

- § 27. Amendment to § 285-28.1 PED Planned Economic Development District
- § 28. Amendment to § 285-29.1 CA Central Avenue Mixed-Use Impact District
- § 29. Amendment to § 285-29.2 HC Hartsdale Center District
- § 30. Amendment to § 285-30 CB Close Business District
- § 31. Amendment to § 285-31 IB Intermediate Business District
- § 32. Amendment to § 285-32 LI Light Industrial District
- § 33. Amendment to § 285-33 GI General Industrial District
- § 34. Amendment to § 285-34 PD Nonresidential Planned Development District
- § 35. Amendment to § 285-35 UR Urban Renewal District
- § 36. Amendment establishing § 285-37.2 Solar Energy Systems
- § 37. Amendment to § 285-53 Approving Agencies
- § 38. Supersession.
- § 39. Severability.
- § 40. Effective Date.

§ 1. Title.

This law is entitled “A local law amending Section 285 of the Code of the Town of Greenburgh entitled “Zoning,” as it relates to Solar Energy Systems.

§ 2. Legislative Findings and Intent.

The Town Board of the Town of Greenburgh finds it in the best interest of the Town to amend Chapter 285 of the Code of the Town of Greenburgh to: (1) provide a regulatory framework for the designation of properties potentially suitable for the location, construction, and operation of Solar Energy Systems; (2) advance local and State sustainability initiatives in accordance with the 2016 Comprehensive Plan; and (3) mitigate the impacts of Solar Energy Systems on environmental resources such as open spaces, woodlands, wetlands/watercourses, steep slopes, wildlife, and other protected resources.

§ 3. Amendments to Section 285-5.

Section 285-5 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

285-5 Definitions.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades or roofing materials, which produce electricity for onsite consumption, which shall also include Rooftop or Building-Mounted Solar Energy Systems.

FACILITY AREA

The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

FLUSH-MOUNTED SOLAR PANEL

A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

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, which generates electricity for onsite or offsite consumption. A solar parking canopy is one example of such a system.

QUALIFIED SOLAR INSTALLER

A person, corporation, or entity that 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, subject to a current and valid Westchester County Home Improvement License (for residential installations).

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM

A Solar Energy System in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames.

SCREENING

Visual shielding that:

- (1) Breaks up the visible area of a project;
- (2) Mitigates adverse aesthetic impacts on views from residences, public rights- of-way, public parks, and other public lands; and
- (3) Integrates the project with the surrounding landscape; but does not require a total visual barrier of the project.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade, including the orientation of streets and parcels to the sun so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ACCESSORY USE

Solar Energy Systems accessory to the principal land use, which may supply energy for the principal structure or structures on the site or for off-site uses.

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, the purpose of which is to secure the right to receive solar access across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric or thermal energy suitable for use and which, for purposes of this section, are classified as impervious surfaces. The term includes, but is not limited to, solar collectors and solar energy equipment. For the purposes of this section, a Solar Energy System does not include any system with only a solar collector of four (4) square feet or less in surface area. The project 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, Tier 3, or Tier 4 Solar Energy System as follows:

(1) Tier 1 Solar Energy Systems are residential and non-residential Rooftop or Building-Mounted Solar Energy Systems, Building-Integrated Solar Energy Systems, and Solar Thermal Systems, which constitute a Solar Accessory Use.

(2) Tier 2 Solar Energy Systems are residential ground-mounted Solar Energy Systems which constitute a Solar Accessory Use, and where the total surface area of all solar panels on the lot is to be factored into the maximum permitted accessory building coverage of the lot.

(3) Tier 3 Solar Energy Systems are non-residential ground-mounted Solar Energy Systems which constitute a Solar Accessory Use, and where the total solar module surface area: (1) on lots up to 20,000 sq. ft. in area – does not exceed 10% of the gross lot area or 1,500 square feet, whichever is greater; (2) on lots from 20,001 sq. ft. to 40,000 sq. ft. in area – does not exceed 8% of the gross lot area or 2,000 square feet, whichever is greater; (3) on lots from 40,001 sq. ft. to 80,000 sq. ft. in area – does not exceed 5% of the gross lot area or 2,500 square feet, whichever is greater; and (4) on lots of 80,001 and greater in area – 2.5% of the gross lot area or 4,000 square feet, whichever is greater. Systems exceeding these size limitations may be permitted, through the

issuance of a Special Use Permit and Site Plan Approval granted by the Planning Board, based on the specific, unique characteristics of the property.

(4) Tier 4 Solar Energy Systems are systems that are not Tier 1, Tier 2, or Tier 3 Solar Energy Systems, where the minimum lot size is 4 acres, or which constitute a Solar Principal Use.

SOLAR MODULE SURFACE AREA

The aggregate square footage of all solar panels part of a Solar Energy System installation.

SOLAR PANEL

A photovoltaic device capable of collecting and directly converting solar energy into electricity. May also be referred to as "solar collector."

SOLAR PRINCIPAL USE

Any ground-mounted Solar Energy Systems that are a principal use on the lot, designed for providing energy to off-site uses.

SOLAR THERMAL SYSTEM

A Solar Energy System that directly heats air, water, or other liquids or gasses using sunlight. The heated air, water, or other liquids or gasses is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

§ 4. Amendments establishing § 285-9.1 Solar District (SD) Zone

Section 285 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-9.1. Solar District (SD) Zone. A Solar District shall be an overlay zone over any other zones allowed in the Town, subject to § 285.37.2G

§ 5. Amendments to Chapter 285-10: R-40 One-Family Residence District.

Section 285-10 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-10A(3)(o) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-10A(4)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 6. Amendments to Chapter 285-11: R-30 One-Family Residence District.

Section 285-11 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-11A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 7. Amendments to Chapter 285-12: R-20 One-Family Residence District.

Section 285-12 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-12A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 8. Amendments to Chapter 285-13 R-15 One-Family Residence District.

Section 285-13 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-13A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 9. Amendments to Chapter 285-14 R-10 One-Family Residence District.

Section 285-14 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-14A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 10. Amendments to Chapter 285-15 R-7.5 One-Family Residence District.

Section 285-15 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-15A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 11. Amendments to Chapter 285-16 R-5 One-Family Residence District.

Section 285-16 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-16A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 12. Amendments to Chapter 285-16.1 R-5/LTF One-Family/Limited Two-Family Residence District.

Section 285-16.1 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-16.1A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 13. Amendments to Chapter 285-16.2 R-5/LMF One-Family/Limited Multifamily Residence District.

Section 285-16.2 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-16.2A(5) Uses under special permit by the Planning Board. All uses permitted in the R-40 District as specified in § 285-10A(5) of this chapter.

§ 14. Amendments to Chapter 285-17 M-6 Multi-Family Residence District.

Section 285-17 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-17A(3)(b)[9] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-17A(4) Uses under special permit by the Town Board.

§ 285-17A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-17A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 15. Amendments to Chapter 285-18 M-10 Multi-Family Residence District.

Section 285-18 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-18A(3)(b)[10] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-18A(4) Uses under special permit by the Town Board.

§ 285-18A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-18A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 16. Amendments to Chapter 285-19 M-14 Multi-Family Residence District.

Section 285-19 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-19A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 17. Amendments to Chapter 285-20 M-22 Multi-Family Residence District.

Section 285-20 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-20A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 18. Amendments to Chapter 285-21 M-25 Multi-Family Residence District.

Section 285-21 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-21A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 19. Amendments to Chapter 285-22 M-175 Multi-Family Residence District.

Section 285-22 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-22A(4) Uses under special permit by the Town Board. All uses permitted and regulated in the M-10 Multifamily Residence District, as specified in § 285-18A(4) of this chapter.

§ 20. Amendments to Chapter 285-22.1 M-SH-62 Multi-Family Senior Housing District.

Section 285-22.1 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-22.1B(2)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-22.1B(3) Uses under special permit by the Town Board.

§ 285-22.1B(3)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-22.1B(3)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 21. Amendments to Chapter 285-23 PH Scatter-Site Housing District.

Section 285-23 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-23A(3)(b)[8] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-23A(4) Uses under special permit by the Town Board.

§ 285-23A(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-23A(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 22. Amendments to Chapter 285-24: Planned Unit Development District.

Section 285-24 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-24B(1)(h) Uses under special permit by the Town Board.

§ 285-24B(1)(h)[1] Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-24B(1)(h)[2] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

~~§ 285-24B(2)(d)[4] Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.~~

§ 23. Amendments to Chapter 285-25: OB Office Building District.

Section 285-25 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-25A(3)(n) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-25A(4)(n) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-25A(5)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 24. Amendments to Chapter 285-26: OB Office Building District-1.

Section 285-26 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-26A(3)(f) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-26A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-26A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-26A(5) Uses under special permit by the Planning Board.

§ 285-26A(5)(a) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 25. Amendments to Chapter 285-27 LOB Limited Office Building District.

Section 285-27 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-27A(3)(m) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-27A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-27A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-27A(5)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 26. Amendments to Chapter § 285-28 DS Designed Shopping District.

Section 285-28 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-28B(3)(m) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28B(4)(i) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-28B(4)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28B(5)(c) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-28B(5)(d) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 27. Amendments to Chapter 285-28.1 PED Planned Economic Development District.

Section 285-28.1 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-28.1C(3)(l) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28.1C(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-28.1C(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 28. Amendments to Chapter 285-29.1 CA Mixed-Use Impact District.

Section 285-29.1 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-29.1B(5.1)(b)[11] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(5.2)(d) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-29.1B(5.2)(e) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(a)[8] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(b)[6] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(c)[11] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.1B(7)(d)[5] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 29. Amendments to Chapter 285-29.2 HC Hartsdale Center District.

Section 285-29.2 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-29.2B(2)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.2B(3)(i) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-29.2B(4) Uses under special permit by the Town Board.

§ 285-29.2B(4)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-29.2B(4)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 30. Amendments to Chapter 285-30 CB Close Business District.

Section 285-30 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-30A(3)(j) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-30A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-30A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-30A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 31. Amendments to Chapter 285-31 IB Intermediate Business District.

Section 285-31 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-31A(2)(j) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-31A(2)(k) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-31A(3)(g) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-31A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-31A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

~~§ 285-31A(5) Uses under special permit by the Planning Board.~~

~~§ 285-31A(5)(a) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.~~

§ 32. Amendments to Chapter 285-32 LI Light Industrial District.

Section 285-32 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-32A(3)(g) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-32A(4)(b) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-32A(4)(c) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-32A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 33. Amendments to Chapter 285-33 GI General Industrial District.

Section 285-33 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in strikeout; new text underlined):

§ 285-33A(3) Accessory uses. All accessory uses permitted in the LI District, as specified in § 285-32A(~~23~~) of this chapter.

§ 285-33A(4)(c) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-33A(4)(d) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-33A(5)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 34. Amendments to Chapter 285-34 PD Nonresidential Planned Development District.

Section 285-34 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-34B(2)(b)[2] Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-34B(2)(b)[3] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-34B(2)(c)[7] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-34B(2)(d)[2] Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 35. Amendments to Chapter 285-35 UR Urban Renewal District.

Section 285-35 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-35B(3) Battery Energy Storage Systems subject to conditions set forth in § 285-37.1 of this chapter.

§ 285-35B(4) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-35C(3) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 285-35D(6)(b) Solar Energy Systems subject to conditions set forth in § 285-37.2 of this chapter.

§ 36. Amendments establishing § 285-37.2 Solar Energy Systems

Section 285 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-37.2. Solar Energy Systems.

A. Statement of purpose and intent. Solar energy is a renewable and non-polluting energy resource that can reduce fossil fuel emissions and lessen a municipality's energy load. Energy generated from Solar Energy Systems

can be used to offset energy demand on the grid. The use of Solar Energy Systems for the purpose of providing electricity and energy for heating and/or cooling is both a necessary and priority component of the Town of Greenburgh's current and long-term sustainability goals. It is also consistent with the commitment of the Town of Greenburgh to be a "climate smart" community. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight, while minimizing disturbance to trees, shrubs, and natural habitats and minimizing adverse impacts on neighboring properties, so as to preserve the Town's aesthetic qualities while protecting the public health, safety, and welfare. Two of the many important environmental resources of the Town are its trees and wooded areas. Another important resource of the Town is its visual environment. 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.

B. Applicability.

- (1) The requirements of this section shall apply to all Solar Energy Systems and equipment installations permitted, installed, or modified in the Town of Greenburgh after the effective date of this section, excluding general maintenance and repair.
- (2) Solar Energy System installations for which a valid Building Permit has been issued before 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 five percent (5%) of the original area of the Solar Energy System (exclusive of any fencing) shall be subject to this section.

C. General Requirements.

- (1) A Building Permit and any related permits shall be required for the installation or modification of all Solar Energy Systems.
- (2) Issuance of permits and approvals shall include review pursuant to the State Environmental Quality Review Act, as applicable.
- (3) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Building Code"), the New York State Energy Conservation Code (the "State Energy Code") as well as may be required by Public Service Commission regulations.

(4) Safety considerations.

- (a) All Solar Energy Systems and solar energy equipment shall be certified under the applicable electrical and/or building codes as required.
- (b) All 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 Building Inspector and appropriate Fire Department/District.
- (c) If storage batteries are included as part of the Solar Energy System, they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state, or county laws or regulations.
- (d) All Solar Energy Systems and solar energy equipment shall be permitted only if designed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Building Code"), the New York State Energy Conservation Code (the "State Energy Code") as well as may be required by Public Service Commission regulations and shall not present any unreasonable safety risks, including, but not limited to, the following factors:
 - [1] Weight load.
 - [2] Wind resistance.
 - [3] Ingress or egress in the event of fire or other emergency.
 - [4] Appropriate access to public water in the event of fire or other emergency.

The Building Inspector shall require certification from a New York State licensed professional engineer or registered architect that the system design conforms with applicable codes, regulations, and industry standards, and that the system has been properly installed and anchored to prevent flotation, collapse, or undesired movement.

- (5) Solar Energy System installations must be performed by a qualified solar installer.
- (6) All on-site utility lines shall be placed underground with the exception of the main service connection at the utility company right-of-way and any new utility interconnection equipment, including, without limitation, any poles, with new easements and right-of-way.

(7) All Solar Energy Systems and associated solar energy equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and/or public or private roadways.

(8) All 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.

(9) Free-standing mechanical and/or electrical equipment shall be enclosed by a minimum four-foot-high fence and be in conformance with the requirements of the National Electric Code, with a self-locking gate to prevent unauthorized access. Any structures for storage batteries shall be enclosed with fencing pursuant to the requirements of Section 285-37.1 of this chapter.

D. 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 compliance with the following conditions:

(1) Building-Integrated Solar Energy Systems.

(a) Building-Integrated Solar Energy Systems shall incorporate the following design requirements:

[1] Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

[2] Solar panels shall have anti reflective coating(s).

[3] Building-Integrated Solar Energy Systems shall comply with the height limitations of the zoning district in which they are situated, as applicable.

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

E. Permitting Requirements for Tier 2 Solar Energy Systems. Tier 2 Solar Energy Systems shall be permitted as accessory uses in all of the zoning districts in the Town, excluding the Planned Unit Development (PUD) District, on lots containing only a lawfully existing single-family or multi-family dwelling unit or units, or in connection with a building permit for construction of a new single-family or multi-family dwelling(s), subject to the issuance of a Building Permit and compliance with the following conditions:

- (1) Coating. Solar panels shall have anti reflective coating(s).
- (2) Lot size. None specified.
- (3) Setbacks. Tier 2 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.
- (4) Height. Tier 2 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.
- (5) Location. Tier 2 Solar Energy Systems shall only be installed within side or rear yards.
- (6) Screening and visibility.
 - (a) Tier 2 Solar Energy Systems shall be screened to the maximum extent reasonably possible from adjacent properties and public or private roadways through the use of architectural features, landscaping, earth berms, fencing, or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation of the solar collectors. A landscaping and screening plan shall be submitted at the time of Building Permit submission which specifies the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading to be used to screen and/or mitigate any adverse aesthetic impacts of the system. A maintenance plan outlining how the required screening will be maintained for the duration of the system shall be provided by the Applicant at the time of Building Permit submission.
 - (b) Solar energy equipment shall be located in a manner so as to reasonably avoid and/or minimize the blockage of views from, or shading of, surrounding properties, while still providing adequate solar access.
 - (c) Tree removal shall be subject to Chapter 260 of the Town Code, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.
 - (d) The clearing of vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Tier 2 Solar Energy System, to the satisfaction of the Town Forestry Officer. Solar Energy Systems shall not be sited within any required or designated buffer areas.

- (7) Fencing. Tier 2 Solar Energy Systems shall be appropriately fenced, in conformance with the requirements of the National Electric Code.
- (8) Coverage. The area beneath ground-mounted solar collectors and solar energy equipment shall be included in calculating maximum permitted accessory building coverage for the applicable zoning district. These calculations shall, however, exclude pervious open space between arrays or rows of solar panels.
- (9) Stormwater management. The Applicant shall ensure that there is no net increase in stormwater runoff from the site resulting from the system installation, in accordance with the requirements of Chapter 248 of the Code of the Town of Greenburgh. Further, the Applicant shall follow the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.

F. Permitting Requirements for Tier 3 Solar Energy Systems. Tier 3 Solar Energy Systems (non-residential ground-mounted systems) shall be permitted in the following zoning districts in the Town (CB, DS, CA, HC, UR, OB, OB-1, LOB, IB, PD, PED, LI, and GI) as accessory uses, subject to the issuance of a Building Permit and compliance with the following conditions:

- (1) Coating. Solar panels shall have anti reflective coating(s).
- (2) Lot size. None specified.
- (3) Setbacks. Tier 3 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.
- (4) Height. Tier 3 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.
- (5) Location. Tier 3 Solar Energy Systems shall be permitted in all yards, subject to compliance with the setback requirements of the zoning district in which they are situated.
- (6) Screening and visibility.
 - (a) Tier 3 Solar Energy Systems shall be screened to the maximum extent reasonably possible from public roadways and adjacent properties through the use of architectural features, earth berms, landscaping, fencing, or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation of the solar collectors. A landscaping and screening plan

shall be submitted at the time of application submittal which specifies the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading to be used to screen and/or mitigate any adverse aesthetic impacts of the system. A maintenance plan outlining how the required screening will be maintained for the duration of the system shall be provided by the Applicant, along with a maintenance bond to cover the cost of replacement, should the Applicant fail to maintain the required screening pursuant to the maintenance plan, to the satisfaction of the Building Inspector, Town Forestry Officer, and Town Attorney. The maintenance plan and bond shall be provided at the time of Building Permit submission.

- (b) Solar energy equipment shall be located in a manner so as to reasonably avoid and/or minimize the blockage of views from, or shading of, surrounding properties, while still providing adequate solar access.
 - (c) Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.
 - (d) The clearing of vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Tier 3 Solar Energy System. Tier 3 Solar Energy Systems shall not be sited within any required buffer areas.
- (7) Fencing. Tier 3 Solar Energy Systems shall be appropriately fenced, in conformance with the requirements of the National Electric Code.
- (8) Coverage. The area beneath ground-mounted solar collectors and solar energy equipment shall be included in calculating maximum permitted accessory building coverage for the applicable zoning district. These calculations shall, however, exclude pervious open space between arrays or rows of solar panels. The total surface area of all solar panels on the lot shall not exceed: (1) on lots up to 20,000 sq. ft. in area – 10% of the gross lot area or 1,500 square feet, whichever is greater; (2) on lots from 20,001 sq. ft. to 40,000 sq. ft. in area – 8% of the gross lot area or 2,000 square feet, whichever is greater; (3) on lots from 40,001 sq. ft. to 80,000 sq. ft. in area – 5% of the gross lot area or 2,500 square feet, whichever is greater; and (4) on lots of 80,001 and greater in area – 2.5% of the gross lot area or 4,000 square feet, whichever is greater, unless a Special Use Permit is granted by the Planning Board to allow a greater amount, pursuant to the standards outlined within this section, as well as the general standards outlined in Section 285-36T(2)(a) through (f) of this Chapter.
- (9) Stormwater management. The Applicant shall ensure that there is no net increase in stormwater runoff from the site resulting from the system

installation, in accordance with the requirements of Chapter 248 of the Code of the Town of Greenburgh. Further, the Applicant shall follow the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.

(10) In the event a Tier 3 Solar Energy System would result in the need for a reduction in the number of off-street parking spaces to an extent which necessitates an Area Variance from the Zoning Board of Appeals, or a Shared Parking Reduction from the Planning Board pursuant to Section 285-38D(5) of this Chapter, the Applicant shall be required to obtain such approval prior to filing for a Building Permit.

(11) Tier 3 Solar Energy Systems proposed to exceed the maximum permitted size as established under §285-37.2F(8) shall require the issuance of a Special Use Permit from the Planning Board, and shall comply with the standards outlined within this section, as well as the general standards outlined in Section 285-36T(2)(a) through (f) of this Chapter. Additionally, such systems require Site Plan Approval from the Planning Board, in accordance with Article VIII hereof. Special Use Permit and Site Plan applications shall be submitted to the Planning Board, in writing, on forms prescribed by the Department of Community Development and Conservation. The Planning Board may also require the submittal of any other pertinent information as may be necessary to determine and provide for the proper consideration of the Special Use Permit and Site Plan applications.

(12) Special use permit. The Planning Board shall have authority over the Special Use Permit. The following Special Use Permit standards shall apply:

(a) Lot size. None specified.

(b) Setbacks. Tier 3 Solar Energy Systems shall comply with the setback requirements of the zoning district in which they are situated.

(c) Height. Tier 3 Solar Energy Systems shall be no more than 16 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt.

(d) Buffers and screening:

[1] A minimum ten-foot (10') wide buffer, consisting of natural vegetation, shall be provided around all mechanical equipment, associated structures, and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways. Noninvasive plant species

and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, and wildflowers must be used in the vegetative buffer. Existing noninvasive trees and vegetation shall be maintained within such buffer areas except where dead, diseased, or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy vegetative buffer requirements, as applicable. If existing trees and vegetation must be removed, the Applicant shall obtain a Tree Removal Permit from the Planning Board pursuant to the requirements of Chapter 260 of the Code of the Town of Greenburgh, as applicable, with input from the Town Forestry Officer, and new plantings shall be provided within the buffer to satisfy the replanting requirements of that chapter. The vegetative buffer may be situated within the required yard setback and shall be maintained for the life of the system.

[i] The Applicant shall submit a screening and landscaping plan to demonstrate adequate measures to screen the system 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 and private roadways and adjacent properties. The Planning Board may request a colored rendering of the plan, at its discretion.

[ii] 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.

[2] When a Tier 3 Solar Energy System site adjoins property zoned for residential use and requires the issuance of a Special Use Permit and Site Plan approval, an increase in the required vegetative buffer area may be required by the Planning Board between the residential lot(s) and site improvements associated with the system. If required, the additional buffer area shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the system from residentially zoned sites. The species type, location, and planted height of such landscaping shall be subject to the satisfaction of the Planning Board following a written recommendation from the Town Forestry Officer.

[3] Depending upon the scope and potential significance of the visual impacts, the Planning Board shall have the right to require a visual assessment analysis, including photo simulations of the proposed project from key viewpoints, which shall include, but

not be limited to, public roads, scenic viewsheds, parks, protected open space, buildings, and properties listed on the state and/or National Registers of Historic Places, and any additional important resource or publicly accessible location.

(e) Vegetative ground cover required.

[1] Where natural pervious surfaces are to be situated under and between solar panels, noninvasive ground cover that is pollinator-friendly, low-maintenance, drought-resistant, and non-fertilizer-dependent, must be installed. Where practical, these areas shall be graded and/or planted in such a way so as to perform a function similar to rain gardens, capable of storing and absorbing stormwater runoff.

[2] Any natural pervious surfaces associated with the project area shall be seeded promptly following completion of construction in such a manner so as to reduce invasive weed growth and erosion in the project area.

[3] The use of “selective” herbicides and pesticides may be applied as specified in Section 280-7A(1)(d) of the Code of the Town of Greenburgh, and shall be limited to the maximum extent practical, with natural alternative solutions preferred.

(f) Coating. The solar panels shall have anti reflective coating(s).

(g) Artificial lighting. Artificial lighting of the Solar Energy Systems and solar energy equipment shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. All such lighting shall be dark-sky compliant.

(h) Trees. Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.

(i) Vegetation removal. The cutting of trees and other vegetation shall be limited to that which is deemed necessary by the project team, which shall include a professionally certified arborist, and the Town Forestry Officer, for the construction, operation and maintenance of the Tier 3 Solar Energy System. Tier 3 Solar Energy Systems shall not be sited within any required buffer areas.

(j) Fencing.

[1] All electrical and control equipment shall be secured to prevent unauthorized access. An emergency access lock box shall be provided for emergency responder entry.

- [2] Where deemed appropriate by the Planning Board, the Planning Board may require Tier 3 Solar Energy Systems to be enclosed by fencing which shall be located on the interior of the required vegetative buffer. If required, the Planning Board shall review and approve the type and height of fencing based on the location and screening needs.
- [3] If required, fencing shall be wildlife friendly and shall have five-inch by twelve-inch (5" x 12") openings at ground level spaced no more than 100 feet apart to allow unencumbered travel by small animals.
- (k) Underground requirements. All utility lines located outside of the facility's fenced perimeter boundary 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 utility interconnection equipment, including, without limitation any poles, with new easements and right-of-way provided, as applicable.
- (l) Access. The Applicant shall indicate on the site plan all existing and proposed access routes to the project area, including road, electric power, emergency access, land-based telephone line connections, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and when determined acceptable by the Planning Board.
- (m) Driveways. Vehicular driveways within the site shall be designed to minimize the extent of impervious materials and soil compaction, with pervious surfaces being highly preferred.
- (n) Signs. All electrical and control equipment shall be labeled. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment, except:
- [1] Manufacturer's/installer's identification and/or facility name;
- [2] Appropriate safety and warning signs and placards;
- [3] Signs that may be required by a federal, state, or county agency or regulations; and
- [4] Signs that provide a twenty-four-hour emergency contact phone number.
- [5] Said information shall be depicted on each sign, within an area

no more than eight (8) square feet and with all lettering no less than one inch (1”) in size.

(o) When energy storage batteries are included as part of the Tier 3 Solar Energy System, they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state or county laws or regulations.

(p) Land ownership. In the case of an application for a Tier 3 Solar Energy System to be located on private lands owned by a party other than the Applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Building Inspector.

(q) Proof of insurance. The Applicant and the owner of the property where the Tier 3 Solar Energy System is to be located shall maintain insurance in a sufficient dollar amount to cover potential personal and property damage associated with operation of the system.

(r) Abandonment and decommissioning.

[1] Purpose. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Greenburgh, by requiring abandoned Solar Energy Systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the solar industry, may create an environment for systems to be abandoned, thereby resulting in a negative visual impact on the Town. Abandoned Solar Energy Systems may become unsafe by reasons of their energy-producing capabilities and serve as an attractive nuisance.

[2] Abandonment.

[i] A Tier 3 Solar Energy System shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than 10% of its rated capacity over a continuous period of one (1) year. A Tier 3 Solar Energy System shall also be deemed abandoned if the facility is not completed and functioning within three (3) years of being issued special use permit and site plan approvals.

[ii] Extension of time. The time at which a Tier 3 Solar Energy System shall be deemed abandoned may be extended by the Planning Board for up to, but no more than, two (2) additional years, provided that the system owner presents to the Planning Board a viable plan outlining the steps and

schedules for placing the system in service or back in service, at not less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the Tier 3 Solar Energy System owner prior to abandonment as defined herein. Extenuating circumstances as to why the system has not been operating or why construction has not been completed may be considered by the Planning Board in determining whether or not to grant an extension.

[3] Removal required. A Tier 3 Solar Energy System which has been abandoned shall be decommissioned and removed. The system owner and/or owner of the land upon which the system is located shall be held responsible to physically remove all components of the system within one (1) year of abandonment. Removal of the system shall be in accordance with the approved decommissioning plan.

[4] Decommissioning plan. All applications for a Tier 3 Solar Energy System requiring a Special Use Permit and Site Plan Approval from the Planning Board shall be accompanied by a decommissioning plan signed by the owner and/or operator of the system. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, and shall, at a minimum, include the following:

[i] An estimate of the anticipated operational life of the system.

[ii] A schedule providing the timeframe over which decommissioning will occur and for completion of site restoration work, which shall be within six (6) 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 and native tree species.

[iii] Identification of the party responsible for decommissioning.

[iv] Description of any agreement with the landowner regarding decommissioning.

[v] A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the Solar Energy System and any ancillary structures, as well as any necessary site remediation or restoration.

[vi] A financial plan to ensure that financial resources will be available to fully decommission the site.

[vii] Removal of aboveground and below-ground equipment, structures, and foundations.

[viii] Disposal of all solid and hazardous waste in accordance with local, county, state, and federal waste disposal regulations.

(s) Financial security.

[1] The Applicant shall submit a cash deposit, bond, or other form of security in an amount and form acceptable to the Town Attorney and Town Engineer to ensure the good-faith performance of the terms and conditions of the Special Permit issued pursuant hereto, and 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 Applicant shall submit a cost estimate detailing the estimated cost of installing the Solar Energy System according to the Special Permit, the estimated cost of decommissioning the Solar Energy System, the estimated salvage value of the Solar Energy System and the anticipated life span of the solar energy system to the Town Engineer for review and approval at the same time the decommissioning plan is submitted. The decommissioning amount may be reduced by the amount of the estimated salvage value of the Solar Energy System, at the discretion of the Town Engineer and Town Attorney. The amount of the security may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

[2] 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.

[3] In the event of default or abandonment of the Tier 3 Solar Energy System, the system shall be decommissioned as set forth in Subsection (r) above.

(t) Annual report. The Tier 3 Solar Energy System owner shall, on a yearly basis, provide the Town with a written report identifying the

rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the system and/or the land upon which the system is located and shall identify any change in the party responsible for the decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year. Every third year, to coincide with the filing evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the system. The Town may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation of this section.

(u) Decommissioning and removal by Town. If the owner or operator of the Tier 3 Solar Energy System fails to remove the system in accordance with the requirements of this section within ninety (90) days of the proposed date of decommissioning, as specified in the decommissioning plan, and provided a notice of extension has not been granted by the Planning Board, the Town may enter the property and physically remove the installation at the expense of the property owner or against any financial surety assigned to the Town as provided for above. The following procedure shall be used for proceeding with Town removal.

[1] Upon a determination of the Building Inspector that a Tier 3 Solar Energy System has been abandoned, the Building Inspector shall notify the system operator, landowner, and permittee by certified mail:

[i] In the case of a facility under construction, to complete construction and installation of the facility within 180 days;
or

[ii] In the case of a fully constructed facility that is operating at a rate of less than 10% of its rated capacity, to restore operation of the facility to no less than 80% of its rated capacity within 180 days, or the Town will deem the system abandoned and commence action to revoke the special use permit approval.

[2] Being so notified, if the system owner, landowner, and/or permittee fails to perform as directed by the Building Inspector within the 180-day period, the Building Inspector shall notify the system owner, landowner, and permittee, by certified mail, that the system has been deemed abandoned and the Town

intends to revoke the special use permit within sixty (60) days of mailing of said notice. The notice shall also state that the permittee may appeal the Building Inspector's determination of abandonment to the Zoning Board of Appeals and request a hearing on the matter.

[3] Said appeal and request for hearing must be made and received by the Secretary to the Zoning Board of Appeals within twenty (20) days of mailing the notice. Failure by the permittee to submit an appeal and request for hearing within the twenty (20) day period will result in the special use permit being deemed revoked as stated herein.

[4] In the event the permittee appeals the determination of the Building Inspector and requests a hearing, the Zoning Board of Appeals shall schedule and conduct said hearing within sixty (60) days of receiving the appeal and request. In the event a hearing is held, the Zoning Board of Appeals shall determine whether the system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Zoning Board of Appeals, or whether to revoke the permit and order removal of the system.

[5] Upon determination by the Building Inspector or Zoning Board of Appeals that a Special Use Permit has been revoked, the decommissioning plan must be implemented and the system removed within one (1) year of having been deemed abandoned, or the Town may cause the removal at the system owner's and/or landowner's expense. If the system owner and/or landowner fail to fully implement the decommissioning plan within one (1) year of abandonment, the Town may collect the required surety and use said funds to implement the decommissioning plan.

(v) Removal by Town and reimbursement of Town expenses. Any costs and/or expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Tier 3 Solar Energy System, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are

provided by law for the collection and enforcement of real property taxes in the Town.

- (w) Prior to the scheduled removal of a Tier 3 Solar Energy System as part of decommissioning or for abandoned systems, a demolition permit for removal activities shall be obtained from the Building Inspector. Removal shall include solar collectors, cabling, electrical components, accessory structures, and any associated structures below grade.
 - (x) The Planning Board may modify or waive any of the above requirements wherever, in its opinion, such modification or waiver will be consistent with the intent of this section and the goal of promoting the public health, safety, comfort, convenience, and general welfare of the community. The findings for granting such modification or waiver shall become a part of the public record.
- (13) Site Plan application. In addition to the other Site Plan application requirements and procedures of Article VIII of this chapter, the following Site Plan application requirements shall apply:
- (a) The application shall include the following information:

 - [1] 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.
 - [2] 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.
 - [3] Nameplate capacity of the Solar Energy System (as expressed in MW).
 - [4] Zoning district designation of the parcel(s) of land comprising the project site.
 - [5] Property lines and physical features, including roads, for the project site.
 - [6] Adjacent land uses on contiguous parcels within a 200-foot radius of the project site boundary.
 - [7] Proposed changes to the landscape of the site, including site grading, vegetation removal and planting, the removal of any

regulated trees pursuant to Chapter 260 of the Code of the Town of Greenburgh, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.

[8] Erosion and sediment control and stormwater management plans prepared to NYS State Department of Environmental Conservation standards, if applicable, and to such standards as required under Chapter 248 of the Code of the Town of Greenburgh, ensuring no net increase in stormwater runoff from the site. Further, the Applicant shall follow the guidance provided by the New York State Department of Environmental Conservation relative to Stormwater Pollution Prevention Plan requirements.

[9] 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 overcurrent devices.

[10] A preliminary equipment specification sheet that documents all proposed solar panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.

[11] A property operation and maintenance plan which describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming of vegetation.

(b) As part of the formal application submittal, engineering documents must be signed and sealed by a NYS licensed professional engineer or NYS registered architect.

G. Permitting Requirements for Tier 4 Solar Energy Systems.

(1) The Town Board finds it 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 petitions for Tier 4 Solar Energy System Overlay Zones (“Solar Overlay Zone”) by legislative amendment of the Town's Zoning Map. All Zoning Districts within the Town are eligible hosts for this Solar Overlay Zone, subject to meeting certain minimum standards. The Town Board, as a legislative body, has broad discretion in amending the Zoning Map and shall take the preservation and use of environmental resources, as well as any other factors it deems pertinent, into consideration in determining whether the Town Board will entertain an application for the creation of a Solar Overlay Zone. In

evaluating this balance, the Town Board will, all other things being equal, prioritize paved parking areas over natural treeless areas, and will prioritize natural treeless areas over treed areas, for the installation of Tier 4 Solar Energy Systems.

In the legislative intent of Chapter 260, entitled, Trees, Community Management, the Town Board has found that trees are necessary to protect the health, safety, environment, ecosystems and general welfare of the inhabitants and properties in the Town of Greenburgh. Trees provide numerous environmental benefits, wildlife habitat, stormwater management, and generally enhance the quality of life and values of properties within the Town. 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 IX of the Town Zoning Ordinance and shall include a detailed site plan at the time of submission. Prior to the submission of a Zoning Map petition, the Applicant shall meet in person with the Town Board at a regularly scheduled work session as part of a presubmission conference. The purpose of such conference shall be to discuss the proposed use in the context of the potential site and provide the Town Board with an understanding of how the petition is consistent and/or inconsistent with the relevant sections of this ordinance.
- (3) Subsequent to an amendment of the Zoning Map pursuant to this section, Tier 4 Solar Energy Systems are permitted as principal uses which, for the purposes of this section, shall be subject to the impervious surface coverage requirements of the underlying zoning district, and may be permitted through the issuance of a Special Use Permit, pursuant to the standards outlined below, and Site Plan approval under Article VIII of this chapter, respectively. Following a presubmission conference, Applicants shall be permitted to submit site plan and special use permit applications in connection with the Zoning Map petition, for concurrent referrals to the Planning Board.
- (4) It shall be a condition of every granting of a Solar Overlay Zone, whether stated or not, that if an application for Site Plan and Special Use Permit approval, certified as complete by the Commissioner of the Department of Community Development and Conservation, is not presented to the Town Board for approval within six (6) months of the date of approval of the Solar Overlay Zone designation, or if no development is initiated on the site within twelve (12) months of the date of Site Plan and Special Use Permit approval of the Solar Energy System by the Town Board, the zoning of said parcel shall revert back to the zoning of said parcel prior to its change to a Solar Overlay Zone, unless the Town Board grants an extension of time to file an application for Site Plan and Special Use Permit approval, or grants an extension of time to initiate development of the site.

(5) Special use permit. The Town Board, upon referral to the Planning Board for review and recommendation, shall have authority over the Special Use Permit. The following Special Use Permit standards shall apply:

(a) Lot size. The property on which the Tier 4 Solar Energy System is placed shall be a minimum of four (4) acres.

(b) Setbacks. Tier 4 Solar Energy Systems shall be setback at least 50 feet from all property lines, unless reduced by the Town Board (following a positive recommendation from the Planning Board) in instances where such setback reduction (not to be less than 10 ft. from any property line) is supported based on a written finding that topography and landscaping or other site conditions provide adequate screening.

(c) Height. Tier 4 Solar Energy Systems shall be no more than 15 feet in height, as measured from the highest natural grade below each solar panel and shall be calculated when the Solar Energy System is oriented at maximum tilt. Tier 4 Solar Energy Systems that are designed as a canopy over existing impervious surfaces or surfaces without vegetation that are used as parking lots may be up to 23 feet in height.

(d) Multi-Phased developments. Following an initial Special Use Permit approved for a Tier 4 Solar Energy System, any subsequent expansion or additional phase of a Solar Energy System development proposal on the same site shall be evaluated by prioritizing paved parking areas over natural treeless areas, and prioritizing natural treeless areas over treed areas, however, in no instance shall the Solar Overlay Zone convey as-of-right expansions.

(e) Buffers and screening:

[1] A minimum twenty five-foot (25') wide buffer, consisting of natural vegetation, shall be provided around all mechanical equipment, associated structures, and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways, unless reduced by the Town Board (following a positive recommendation from the Planning Board) in instances where such reduction is supported based on a finding that topography and landscaping or other site conditions provide adequate screening. Noninvasive plant species and pollinator-friendly and wildlife-friendly native plants, shrubs, trees, grasses, and wildflowers must be used in the vegetative buffer. Existing noninvasive trees and vegetation shall be maintained within such buffer areas except where dead,

diseased, or as necessary for development or to promote healthy growth, and such trees and vegetation may supplement or satisfy vegetative buffer requirements, as applicable. If existing trees and vegetation must be removed, the Applicant shall obtain a Tree Removal Permit from the Town Board pursuant to the requirements of Chapter 260 of the Code of the Town of Greenburgh, as applicable, with input from the Town Forestry Officer, and new plantings shall be provided within the buffer to satisfy the replanting requirements of that chapter. The vegetative buffer may be situated within the required yard setback and shall be maintained for the life of the system.

[i] The Applicant shall submit a screening and landscaping plan to demonstrate adequate measures to screen the system 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. The Town Board may request a colored rendering of the plan, at its discretion.

[ii] 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.

[2] When a Tier 4 Solar Energy System site adjoins property zoned for residential use, an increase in the required vegetated buffer may be required by the Town Board between the residential lot(s) and site improvements associated with the system. If required, the additional buffer area shall be planted with a mixture of evergreen and deciduous plantings at a height so as to provide, as much as practicable, a visual screen of the system from residentially zoned sites. The species type, location, and planted height of such landscaping shall be subject to the satisfaction of the Town Board.

[3] Depending upon the scope and potential significance of the visual impacts, the Town Board shall have the right to require a visual assessment analysis, including photo simulations of the proposed project from key viewpoints, which shall include, but not limited to, public roads, scenic viewsheds, parks, protected open space, buildings, and properties listed on the state and/or National Registers of Historic Places, and any additional important resource or publicly accessible location.

(f) Vegetative ground cover required.

[1] Natural pervious surfaces are to be situated under and between

solar panels, with noninvasive ground cover that is pollinator-friendly, low-maintenance, drought-resistant, and non-fertilizer-dependent, to be installed. Where practical, these areas shall be graded and/or planted in such a way so as to perform a function similar to rain gardens, capable of storing and absorbing stormwater runoff.

[2] All natural pervious surfaces associated with the project area shall be seeded promptly following completion of construction in such a manner so as to reduce invasive weed growth and erosion in the project area.

[3] The use of “selective” herbicides and pesticides may be applied as specified in Section 280-7A(1)(d) of the Code of the Town of Greenburgh, and shall be limited to the maximum extent practical, with natural alternative solutions preferred.

(g) Coating. The solar panels shall have anti reflective coating(s).

(h) Artificial lighting. Artificial lighting of the Solar Energy Systems and solar energy equipment shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. All such lighting shall be dark-sky compliant.

(i) Trees. Tree removal shall be subject to Chapter 260 of the Code of the Town of Greenburgh, including, but not limited to, § 260-8 pertaining to tree replacement and/or other mitigation.

(j) Vegetation removal. The cutting of trees and other vegetation shall be limited to that which is deemed necessary by the project team, which shall include a professionally certified arborist, and the Town Forestry Officer, for the construction, operation and maintenance of the Tier 4 solar energy system. Solar Energy Systems shall not be sited within any required buffer areas.

(k) Fencing.

[1] All electrical and control equipment shall be secured to prevent unauthorized access. An emergency access lock box shall be provided for emergency responder entry.

[2] All Tier 4 Solar Energy Systems shall be enclosed by fencing which shall be located on the interior of the required vegetative buffer. The Town Board shall review and approve the type and height of fencing based on the location and screening needs.

[3] The fencing shall be wildlife friendly and shall have five-inch by twelve-inch (5” x 12”) openings at ground level spaced no

more than 100 feet apart to allow unencumbered travel by small animals.

- (l) Underground requirements. All utility lines located outside of the facility's fenced perimeter boundary 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 utility interconnection equipment, including, without limitation any poles, with new easements and right-of-way provided, as applicable.
- (m) Access. The Applicant shall indicate on the site plan all existing and proposed access routes to the project area, including road, electric power, emergency access, land-based telephone line connections, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and when determined acceptable by the Town Board.
- (n) Driveways. Vehicular driveways within the site shall be designed to minimize the extent of impervious materials and soil compaction, with pervious surfaces being highly preferred.
- (o) Signs. Tier 4 Solar Energy System owners shall be subject to the same signage requirements as outlined in Section 285-37.2(F)(12)(n).
- (p) When energy storage batteries are included as part of the Solar Energy System, they shall be subject to the requirements of Section 285-37.1 of this chapter and any applicable federal, state or county laws or regulations.
- (q) Land ownership. In the case of an application for a Tier 4 Solar Energy System to be located on private lands owned by a party other than the Applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Building Inspector.
- (r) Proof of insurance. The Applicant and the owner of the property where the Solar Energy System is to be located shall file with the Building Inspector proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation of the system.
- (s) Financial Security. Tier 4 Solar Energy Systems shall be subject to the same financial security requirements and conditions as outlined in Section 285-37.2(F)(12)(s).

(t) Abandonment and decommissioning. Tier 4 Solar Energy Systems shall be subject to the same abandonment and decommissioning requirements and conditions as outlined in Section 285-37.2(F)(12)(r).

(u) Annual report. Tier 4 Solar Energy System owner shall be subject to the same annual reporting requirements as outlined in Section 285-37.2(F)(12)(t).

(v) Decommissioning and removal by Town. Tier 4 Solar Energy Systems shall be subject to the same conditions and requirements related to decommissioning and removal by the Town, as outlined in Section 285-37.2(F)(12)(u).

(w) Removal by Town and reimbursement of Town expenses. Tier 4 Solar Energy Systems shall be subject to the same conditions and requirements related to system removal by the Town and reimbursement of Town expenses, as outlined in Section 285-37.2(F)(12)(v).

(x) Prior to the scheduled removal of a Tier 4 Solar Energy System as part of decommissioning or for abandoned systems, a demolition permit for removal activities shall be obtained from the Building Inspector. Removal shall include solar collectors, cabling, electrical components, accessory structures, and any associated structures below grade.

(y) The Town Board may modify or waive any of the above requirements wherever, in its opinion, such modification or waiver will be consistent with the intent of this section and the goal of promoting the public health, safety, comfort, convenience, and general welfare of the community. The findings for granting such modification or waiver shall become a part of the public record.

(6) Site Plan application. Tier 4 Solar Energy System Applicants shall be subject to the Site Plan application requirements as outlined in Section 285-37.2(F)(13).

H. Recycling. Waste from end-of-life solar panels presents opportunities to recover valuable materials and create jobs through recycling. Diverting solar panels from landfills to recycling saves space in landfills in addition to capturing the value of the raw materials. In the event that recycling of solar panels becomes available within Westchester County, or within 25 miles of a project site, the project Applicant shall be required to recycle all materials associated with the Solar Energy System.

I. 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.

§ 37. Amendments to Chapter 285-53 Approving Agencies.

Section 285-53 of the Code of the Town of Greenburgh is hereby amended as follows (deleted text in ~~strikeout~~; new text underlined):

§ 285-53A The Town Board shall be the approving agency where a site plan application concerns property which is five acres or more in area, except for those applications filed pursuant to §§ 285-24, 285-34, 285-37.1D, and 285-37.2F of this chapter.

§ 285-53B Pursuant to § 274-a of the Town Law, the Town Board hereby delegates to the Planning Board the approval authority for all site plan applications which concern property less than five acres in area and for those applications filed pursuant to §§ 285-24, 285-34, 285-37.1D, and 285-37.2F of this chapter.

§ 38. Supersession:

Pursuant to New York Municipal Home Rule Law Section 22, this law is intended to supersede any other inconsistent provision of law.

§ 39. Severability:

If any clause, sentence, paragraph, subdivision, section or part of this law or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 40. Effective Date:

This law shall take effect immediately upon filing with the Secretary of State.