

CODE OF THE TOWN OF ROMULUS, NEW YORK

ARTICLE VIII, SECTION 13

SOLAR COLLECTORS AND INSTALLATIONS

A. Purpose

It is the purpose of this regulation to promote the safe, effective and efficient installation and operation of solar photovoltaic (PV) systems. Solar energy systems are renewable energy systems based on technology that converts sunlight to electricity. Small-scale solar energy systems are appropriate in all zoning districts and large-scale are appropriate in specified districts. Solar energy systems are permitted as provided in this chapter, to minimize adverse impacts on nearby properties and protect the public health, safety and welfare.

This ordinance seeks to:

Provide property owners and business owners with flexibility in satisfying their on-site energy needs;

Reduce overall energy demands within the Town and promote energy efficiency;

Streamline the permitting process for solar PVC systems by updating zoning regulations to explicitly address solar PVC systems;

Preserve scenic views and retain rural the character of community;

Preserve Prime Soils and Soils of Statewide Importance;

Support the Town's Comprehensive Plan;

Support the Town's Agricultural and Farmland Protection Plan

B. Definitions

1. Accessory Building-Mounted Solar Voltaic (PV) System: A solar voltaic system attached to any part or type of roof on a building or structure that is either the principal structure or an accessory structure on a recorded lot, parcel or property. This system also includes any solar photovoltaic-based architectural elements.

2. Accessory Free-Standing Solar Photovoltaic (PV) System: A free-standing solar photovoltaic system that delivers electricity primarily

to a building or structure on a recorded lot, parcel or property. This system also includes any solar photovoltaic -based architectural elements. Often referred to as "Ground Mounts," these installations may also be interconnected with the electric grid.

3. Accessory Structure: A structure, the use of which is customarily incidental and subordinate to that of the principal building, and is located in the same lot or premises as the principal building.
4. Building- Integrated Solar Photovoltaic (PV) System: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof. A common type of this installation is known as a "Roof Mount" and may be interconnected with the electric grid.
5. Collective Solar: Solar installation owned collectively through subdivision homeowner association, groups, "adopt-a-solar-panel", or other similar arrangement.
6. Flush-Mounted Solar Panel: Photovoltaic (PV) panels and tiles that are installed flush to the surface of a roof or wall and which cannot be angled or raised.
7. Net Metering: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.
8. Passive Solar Energy Techniques: Design techniques which maximize solar heat gain, minimize heat loss and provide thermal storage within a building during the heating season and minimize heat gain and provide for natural ventilation during the cooling season. The site design shall include, but not be limited to: 1.) house orientation; 2.) street and lot layout; 3.) vegetation; 4.) natural and man-made topographical features; and 5.) protection of solar access within the development.

9. Photovoltaic Panel (PV): A semi-conductor based device that converts light directly into electricity.
10. Point of Interconnection (POI): The Public Service Commission and Utility Company approved location in which a distributed energy resource (DER) or for purposes of this chapter a solar installation accesses the larger electric grid.
11. Solar Photovoltaic (PV) System: A solar photovoltaic system that captures solar energy and converts it to electrical energy primarily for offsite use and is the primary land use of the property on which it is located. Some electricity may be used by an onsite building.
12. Qualified Solar Installer: A person who has skills, knowledge, training and certification related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.
13. Solar Access: Space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.
14. Solar Easement: An easement recorded pursuant to the NY Real Property Law for the purpose to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.
15. Solar Photovoltaic (PV)-based Architectural Element: Structural/architectural element that provides protection from weather that includes awnings, canopies, porches or sunshades and that is constructed with the primary covering consisting of solar PV modules, and may or may not include additional solar PV related equipment.

16. Solar Photovoltaic (PV) Related Equipment: Items including a solar photovoltaic cell, panel or array, lines, mounting brackets, framing, and foundations used for or intended to be used for collection of solar energy.
17. Solar Photovoltaic (PV) System: A solar collection system consisting of one or more building systems, solar voltaic cells, panels or arrays and solar related equipment that rely upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation.
18. Solar Thermal System: A solar collection system that directly heats water, or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.
19. LARGE-SCALE SOLAR COLLECTION SYSTEM or MAJOR SYSTEM OR SOLAR FARM: An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Facilities consist of one or more ground or roof-mounted solar collector devise, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Major solar collection systems are defined as ground or roof- mounted systems with a total surface area greater than 2,500 square feet.
20. SMALL-SCALE SOLAR COLLECTION SYSTEM or MINOR SYSTEM: A solar photovoltaic cell, panel, or array, or solar hot air or water collection device, which relies upon solar radiation as an energy source for collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes. Minor systems are subject to Seneca County Memo of Understanding with the Town

of Romulus adopted September 20, 2017, governing applications and installations of systems less than 25 kW. Minor solar collection systems are defined as roof- or building -mounted solar collectors greater than 60 square feet on any code-compliant structure, and ground-mounted solar collectors with the total surface area greater than 60 square feet and less than 2,500 square feet.

Commented [MJ1]: Why greater than sixty square feet?

Commented [MJ2]: Same Question?

C. Authority and Procedure

1. Authority:

1. The Town Planning Board is hereby authorized to approve, approve with conditions, or disapprove Large-Scale Solar Collection Systems siting applications in accordance with these regulations. The planning board may hire a professional Engineer or consultant to assist in the review of an application at the applicant's expense.

2. Procedure:

1. Completed application for siting Large-Scale Solar Collection Systems shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Town Planning Board. Applications may be made by the owner of the property or by their duly authorized representative, who shall attend the meeting of the Planning Board to discuss the application.
2. Within sixty-two (62) days after the Town Planning Board meeting where the completed application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date thereof. The applicant shall give notice in writing by certified mail to all property owners of the land immediately adjacent to the parcel where the project is proposed. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.
3. Within sixty-two (62) days of the public hearing, the Town Planning Board may approve, conditionally approve, or

disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

D. Application Requirements for Special Use Permits for Large-Scale Solar Collection Systems

1. An applicant for a special use permit for a Large-Scale Solar Collection System shall submit a site plan. In addition, the following information shall be submitted by the applicant as part of a special use permit application and prepared by a professional engineer when appropriate that is registered to practice in New York State.
2. **Special Use Permit Standards. Large-Scale Solar Collection Systems** are only permitted by special use in Agricultural and WITE zoning districts and no other districts. Large-Scale Solar Collection Systems in the Agricultural Zone on property owned outright or leased may not encompass more than 40 acres per point of interconnection (POI). Large-Scale Solar Collection Systems located on property owned or leased in the WITE Zone may encompass more than 40 acres. No Special Use Permit for Large-Scale Solar Energy shall be issued unless the Planning Board specifically finds that the proposed project is in compliance with each of the following
 - I. The Planning Board shall make the determination that the use of the land required by the proposed project shall not cause a loss of valuable agricultural lands in the Town of Romulus.
 - II. **Setbacks.** Large-Scale Solar Energy Systems shall adhere to the setback requirements outlined in the tables at the end of this chapter.
 - III. **Height.** Large-Scale Solar Energy System that is ground mounted shall not exceed the maximum height outlined in the tables at the end of this chapter.

- IV. **Lot Coverage.** A Large-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot in which it is installed. The entire surface area of the solar panels shall be included in the total area regardless of the method by which the panels are supported or attached to the ground, or the angle at which they are placed.
- V. **Security.** All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access, unless the Planning Board determines that fencing will cause environmental or ecological problems, or that such fencing is unnecessary. If the Planning Board makes such a determination, then the applicant must provide for other means, acceptable to the Planning Board, to prevent access to circuit conductors and other electrical components of the system. Warning signs with the property owner's contact information shall be placed on the entrance and perimeter of the property and on the solar energy system at locations acceptable to the Planning Board. Any fencing installed shall be acceptable to the Planning Board, and shall include screening of said fencing as required by the Planning Board.
- VI. **Drainage.** All Large-Scale Solar Energy Systems shall include a drainage and storm water management plan that is acceptable to the planning board.
- VII. **Easements.** All Large-Scale Solar Energy Systems shall provide access, maintenance, and utility easements that are acceptable to the Planning Board.
- VIII. **The Planning Board must approve the Decommissioning Plan submitted by applicant.** The Planning Board shall require that the applicant or property owner post an automatically renewing security bond for construction, maintenance, and removal of solar energy systems. The security bond shall be total estimated cost of decommissioning and remediation as set by a third party engineer.
- IX. **The Planning Board must approve the Property Operation and Maintenance Plan submitted by the applicant.**
- X. **All access roads and paths required for this project shall be integrated into other uses on the property if possible. Access**

road siting and grading shall be designed to minimize any negative impacts from storm water drainage.

- XI. All Large-Scale Solar Energy Systems shall be adequately screened as determined by the Planning Board, to avoid adverse aesthetic impacts.
 - XII. Any application under this section shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgement of the Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board may waive requirement for site plan review.
 - XIII. The Planning Board may impose conditions on the approval of any special use permit under this Section in order to enforce the standards referred to in this Section, or in order to discharge its obligations under the State Environmental Quality Review Act (SEQR)
3. In addition to the requirements set forth above for Large-Scale Solar Collection Systems, applicants must adhere to the following for consideration for a special use permit:
- a) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - b) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required
 - c) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - d) Property Operation Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, safety concerns, and access. The Property Operation and Maintenance Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.

- e) **Decommissioning Plan.** To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.
- I. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System is no longer being used, or is inadequately maintained, it shall be removed by the applicant or any subsequent owner.
 - II. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.
 - III. The plan shall also include an expected timeline for execution.
 - IV. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer. Cost estimations shall take into account inflation.
 - V. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
 - VI. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town or the Town's duly appointed representative or agent(s) may remove the system and restore the property and the Town may impose a lien on the property to cover these costs to the municipality, in addition to any other remedies available to the Town. The lien on the property shall not exceed the difference in the amount bonded for decommissioning and the actual cost.
- f) **Construction Schedule.** Applicants must submit a proposed schedule for the completion of the project, including the proposed start date and the proposed date of substantial completion, the expected date of the connection to the power grid, and the expected date on which operation of the photovoltaic system shall commence.

E. Site Plan Review Requirements for Large-Scale Solar Collection Systems as Part of Special Use Permit Review:

1. Where applicable and unless more restrictive regulations apply, the requirements of Article VIII, Section 13 shall apply to solar collectors and installations for large-scale systems.
2. A large-scale system may be permitted in the following zoning districts: Agricultural and WITE. Large-scale systems that are part of on farm operations (as defined by NYS Agriculture and Markets Law 301 (II)) are exempt from site plan approval if the solar collection system does not exceed 110% of the anticipated electrical needs of the on-farm equipment. All large-scale systems require site plan approval from the Planning Board and are subject to the terms and conditions listed below:

A. Height and setback restrictions.

- I. The maximum height for ground-mounted solar panels located on the ground or attached to a framework located on the ground shall not exceed 10 feet in height above the ground in the agricultural district and 20 feet in height above ground in the WITE district.
- II. The minimum side lot and rear setback shall be 50 feet; the minimum front lot setback shall be 50 feet. All setbacks are measured from property line for purpose of Solar Energy Regulation.
- III. Based on site specific conditions, including typography, adjacent structures and roadways, a landscaped buffer may be required around all equipment and solar collectors to provide screening from adjacent residential properties and roads but should not result in shading solar collectors.

B. Design standards.

- I. Removal of trees and other existing vegetation shall be minimized, and offset with planting elsewhere on the property if the proposed vegetation does not shade solar collectors.
- II. Roadways within the site shall be constructed of materials appropriate to the site and shall be designed to minimize the extent of the roadways constructed and soil compaction.
- III. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

- IV. Solar collectors and other facilities shall be designed and located to minimize reflective glare toward any inhabited buildings on adjacent properties and roads.
- V. All electric equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate and provided with landscape screening.
- VI. A large-scale solar collection system to be connected to the utility grid shall provide documentation from the utility company acknowledging the large-scale solar collection system will be connected to the utility grid to sell electricity to the public utility. A copy of the document shall be provided to the Town Clerk.

C. Signs

- I. A sign not exceeding eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
- II. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- III. Solar collection systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system.

D. Areas of Potential Sensitivity shall be shown on site plans and shall be given special consideration by the Planning Board at site plan review. Those areas consist of the following:

- I. One-hundred-year flood hazard zones considered an A or AE zone on the FEMA Flood Maps.
- II. Historic and/or culturally significant resources in an historic district or historic district transition zone.
- III. Within 100 feet landward of a freshwater wetland.
- IV. Adjacent to, or within, the control zone of an airport.
- V. State owned lands.
- VI. Unique Natural Areas.
- VII. Properties with Conservation Easements or owned by a land conservation organization.
- VIII. Public trails.

- IX. Prime Soils and Soils of Statewide Importance, as defined by the United States Department of Agriculture.
- E. Property Operation and Maintenance Plan. A property operation and maintenance plan is required, describing continuing solar collection system maintenance and property upkeep, such as mowing and trimming; snow plowing.
- F. Abandonment.
 - I. All applications for a large-scale solar collection system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.
 - II. In the event the facility is not completed and functioning within 18 months of the final issuance of the site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fail to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
 - III. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - a. Removal of aboveground and below-ground equipment, structures and foundations.
 - b. Restoration of the surface grade and soil after removal of equipment.
 - c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - d. The plan shall include a time frame for completion of site restoration work.
 - IV. Upon cessation of activity of a constructed facility for a period of one year, the owner and/or operator shall implement the decommissioning plan.
 - V. If the owner and/or operator fails to implement the decommissioning plan within the 180 days after the cessation of activity, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning

plan, following the procedure in Article VIII, Section 13, Part E, 2, F III. Failure to comply shall be subject to a monetary penalty determined by the applicable court having jurisdiction in the matter.

F. APPLICATION REQUIREMENTS FOR SMALL-SCALE SOLAR COLLECTION SYSTEMS

1. Rooftop-mounted and building-mounted solar collectors are permitted in all zoning districts in the Town. Building permits shall be required for all rooftop-mounted and building-mounted solar collectors.
2. Small-Scale Solar Collection Systems that are Ground-mounted or freestanding are permitted in all zoning districts of the Town meeting the following requirements
 - a) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
 - b) The height of the solar collectors on any mounts shall not exceed 10 feet in height when oriented at maximum tilt.
 - c) The total surface area of all solar collectors on the lot shall not exceed 2,500 square feet.
 - d) A Seneca County Building Permit has been obtained for the solar collectors.
 - e) The solar collectors are permitted in the side and rear yards.
 - f) Solar collectors and other facilities shall be designed and located in order to minimize reflective glare toward any inhabited buildings on adjacent properties and roads.
 - g) Accessory Building-Mounted solar PV systems are permitted to face any rear or side yard. Free-standing Solar PV systems are permitted within the lot's buildable area as determined by allowable property and solar setbacks.
3. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors. Where a site exists, an

approved modified site plan shall be required if any of the thresholds specified in Article VIII, Section 13 are met, including but not limited to proposed changes to or additions of solar collectors where such changes or additions meet

an Article VIII, Section 13 threshold.

4. All solar collector installations must be performed by a qualified solar installer, and prior to operation, the electrical connections must be inspected by Seneca County Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the The Seneca County Department of Code Enforcement. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
5. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Seneca County and other applicable laws and regulations.
6. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve month period.
7. Zoning Officer reserves the right to require site plan approval by the Town Planning Board for consideration of drainage and run-off.

G. Solar Energy Regulations for Established Zones

1. Large and Small Scale in Zoning Districts

NA – Not Allowed/Prohibited
 NPR – No Permit Required
 ZPR – Zoning Permit Required
 SP – Special Use Permit Required

District	Small-Scale ≤ 25KW *	Large-Scale < 40 Acres	Large-Scale > 40 Acres
Conservation/ Recreation	ZPR	NA	NA
Agriculture	ZPR	SP	SP
Lakeshore Residential	ZPR	NA	NA
Industrial/Warehouse	ZPR	SP	SP
Hamlet Residential	ZPR	NA	NA
Institution/Government	ZPR	SP	SP
Warehouse/Industrial/Transportation/Energy	ZPR	SP	SP

*Roof mounted and other building mounted small-scale solar collectors do not require any type of zoning permit

2. Area Regulations for Solar Energy Collector Systems

I. Small-Scale Area Regulations

District	Small-Scale ≤ 25KW		
	Maximum Height	Rear Yard Setbacks	Side Yard
Conservation/ Recreation	10'	50'	15'
Agriculture	10'	50'	15'

Lakeshore Residential	10'	50'	15'
Industrial/Warehouse	20'	50'	15'
Hamlet Residential	10'	50'	15'
Institution/Government	20'	50'	15'
Warehouse/Industrial /Transportation/Energy	20'	50'	15'

II. Large-Scale Area Regulations Less Than 40 Acres

District	Large-Scale < 40 Acres			
	Maximum Height	Front Setback	Side Setback	Rear Setback
Agriculture	10'	100'	50'	50'
Industrial/Warehouse	20'	50'	50'	50'
Institution/Government	20'	50'	50'	50'
Warehouse/Industrial /Transportation/Energy	20'	50'	50'	50'

III. Large-Scale Regulations More Than 40 Acres

District	Large-Scale > 40 Acres			
	Maximum Height	Front Setback	Side Setback	Rear Setback
Industrial/Warehouse	20'	50'	50'	15'
Institution/Government	20'	50'	50'	15'
Warehouse/Industrial /Transportation/Energy	20'	20'	50'	15'