

**ARTICLE V  
General Provisions Applicable to All Districts**

**Section 500 Applicability of Regulations**

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone district of this Ordinance and meeting the requirements set forth herein. Open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations required by this Ordinance for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this ordinance, and the Certificate of Occupancy Compliance [1998] shall become null and void.

**Section 501 Preservation of Natural Features**

- A. No structure shall be built within fifty (50) feet of the bed of a stream carrying water on an average of six (6) months of the year, except for:
  - 1. Public bridges, public water works and other municipal or public utility facilities.
  - 2. Such private bridges, fords, drainage conduits, embankments and similar structures as are necessary to permit access to a lot ~~of~~ or [1998] portion thereof or as are incidental to a lawful use of a lot, provided that such structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.
- B. No person shall strip, excavate or otherwise remove topsoil for sale or other use other than on the premises from which taken, except in connection with the approved construction or alteration of a building, pond or swimming pool on such premises or lawful excavation operations pursuant to Article XI of this Law.
- C. Whenever natural features such as trees, brooks, drainage channels and views interfere with the proposed use of property, the retention of the maximum amount

of such features consistent with the intended use of the property shall be encouraged.

**Section 502 Regulations Applicable to All Zones**

- A. Except as specifically provided herein, no lot shall have erected upon it more than one (1) principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered to provide a yard or open space for any other building.
- B. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Ordinance for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building, and if located in a side yard area shall conform to side yard requirements of the Schedule. Detached accessory buildings for farm use may be located closer to the street or right-of-way line than the principal building. In no case, however, shall said accessory building be closer to the street or right-of-way line than the minimum front yard setback for the principal building.
- BB. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the “Battery Energy Storage System Permit,” and exempt from site plan review.**
  - 1. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.**
  - 2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act.**
  - 3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Zoning Law.**

- C. Every principal building shall have access to a public street improved to meet Town requirements. A gravel surface shall be considered sufficient to meet minimum standards. Access may be either direct or by private road or drive approved by the Town. Said road or driveway shall have a right-of-way width of not less than thirty (30) feet and an improved surface of at least twenty (20) feet in width. All structures shall be so located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- D. At the intersection of two (2) or more streets, no hedge, fence or wall (other than a single post or tree) which is higher than three (3) feet above curb level, nor any obstruction to vision, including agricultural crops, shall be permitted in the triangular area formed by the intersection street lines and a line joining each fifty (50) feet distant from said intersection along said street lines.
- E. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard setback area shall be measured from such proposed right-of-way line.
- F. No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machine of any type to be placed in any location which would infringe upon the required yard area specified in this ordinance. However, a temporary roadside stand meeting the requirements of Article IX is not prohibited and any such temporary roadside stand is exempted from the yard and setback requirements for the Use District in which it is located.
- G. No manure, odor or dust-producing substances shall be permitted to be stored within one hundred (100) feet of any lot line.
- H. For the purpose of regulating the locations of accessory buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
- I. No front yard in a rural residential use district [1998] shall be used for the open storage of propane tanks, boats, unregistered vehicles, travel trailers or any other equipment, except for vehicular parking on driveways. Such vehicles and/or equipment may be stored on the side of the building but not nearer than ten (10) feet from the rear or side lot line.
- J. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this Ordinance either with respect to any existing structures or use and any proposed

structures or use or setbacks.

- K. Nothing in this Ordinance shall restrict the construction, use or maintenance of public buildings, structures or facilities, parks or other publicly owned properties or the installation and maintenance of such public utilities as may be required to service any district. All facilities shall be subject to the yard requirements of this Ordinance and to site plan review.
  
- L. Fences erected in the Town shall adhere to the following standards:
  - 1. No fence in a residential district shall be erected, altered or reconstructed to a height exceeding three (3) feet above ground level when located within twenty-five (25) feet of the street right-of-way line.
  - 2. Fences in residential districts may be erected, altered or reconstructed to a height of up to six (6) feet above ground level provided that such fence is located more than twenty-five (25) feet from the street line.
  - 3. Fencing used to enclose a tennis court may be permitted up to ten (10) feet in height provided that such fencing is not less than twenty-five (25) feet from either the side or rear property line.
  - 4. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth, except if within highway right-of-way when permission of highway superintendent is required.
  - 5. No fence in a business or industrial district shall exceed eight (8) feet in height, except that they shall not exceed three (3) feet in height in front yards.
  - 6. Fences for kennels and for the purpose of enclosing farmland and horses and cattle shall not exceed eight (8) feet in height.
  - 7. No fence shall be erected to encroach on any property line or upon a public right-of-way.
  - 8. No fence shall be erected in a special flood hazard area, except for farm fences in an Agricultural District when it can be demonstrated that such fence would not restrict the flow of flood waters nor would it have any impact on any buildings.

- M. If the use of any lot or building involves the disposal of sewage or wastewater and public sewers are not available, an adequate sanitary disposal system for the same shall be installed in accordance with regulations and standards promulgated by the Department of Health and at all times maintained on such lot or in lawful connection therewith. The minimum lot area otherwise required shall be increased where necessary to the extent required to provide such disposal system. Certification of approval for the installation of on-site sewage disposal systems shall be obtained from the Department of Health and submitted to the Zoning Officer prior to the start of construction.
- N. ~~Except for customary farm operations,~~ [1998] No lot shall be used for the commercial storage or disposal of solid or liquid waste without the prior approval of the Town Board. Duly approved individual sewage disposal systems shall be excepted from this provision. Town Board approval shall be given only upon a finding that the proposed use shall not have a detrimental effect upon surrounding properties and evidence of any required permits necessary from the Department of Health and/or the New York State Department of Environmental Conservation. The Town Board may require the submission of any documents necessary to make the foregoing finding. Consistent with the provisions of paragraph G above, this provision shall not prohibit the storage of animal waste upon any farm. It shall not be customary farm operation to dump or mound manure within twenty-five (25) feet from a road or right of way. [1998]
- O. Discharges from individual sewage disposal systems shall be in accordance with approved plans and the procedures and standards of the County Health Department and the New York State Department of Environmental Conservation.
- P. All construction plans shall include consideration of storm water drainage needs. Whenever possible, site grading shall direct water away from buildings and structures to the natural drainage way.
- Q. Any structure which has been vacant and which has had utility service disconnected for two (2) years shall not be used for any purpose without obtaining a new Certificate of Occupancy.
- R. Any structure completely destroyed by fire shall require new zoning and building permits before any reconstruction is started. A new Certificate of Occupancy shall also be required.

- S. Any structure partially destroyed by fire shall be rebuilt in accordance with this Ordinance and the following additional provisions:
1. No permits shall be required to restore/replace any portion of a structure to its same condition prior to its being damaged.
  2. Any change in a structure damaged by fire including but not limited to size of building, bearing walls, entrance ways, chimneys, [1998] building materials, shall require new zoning and building permits and said construction shall meet or exceed the Uniform Code requirements and the provisions of this ordinance.
- T. Nothing in this Ordinance shall prohibit the movement or rearrangement of topsoil or earth material on site by an owner of property within the Town. Any such movement or rearrangement shall, however, be undertaken in a manner which does not create drainage problems for adjacent property owners.
- U. Only one (1) unregistered motor vehicle, that is defined herein as a permitted exception, is allowed in any District. The following unregistered motor vehicles, when in rear or side yard obstructed from view of neighboring properties, are permitted exceptions:
1. Vehicles being repaired (up to a period of sixty (60) days that can be exceeded only if classified as a restoration); or
  2. Plow or wood vehicles; or
  3. Seasonal vehicles; or
  4. Restoration of a single vehicle consistent with a zoning permit indicating an expected reasonable schedule and actual progress toward restoration. [2004]
- V. Storage of Heavy Equipment and Commercial Vehicles - Parking operable farm equipment on the farm property, as defined herein, is allowed by right. One operable commercial vehicle, which is not heavy equipment and which is not more than two (2) tons in rated capacity, nor in excess of twenty-four (24) feet in length, may be parked outdoors on a parcel with a residence, on a surfaced area not within the front setback, if used by the resident for employment. All heavy equipment, such as tractor trailer, semi-trailers, construction equipment or storage of additional commercial vehicles must be either garaged or have buffer areas as

defined in this local law, and has an approved site plan. If the property is less than two (2) acres in size, a variance shall be required. [2004]

- W. The use of a home computer and minimal space inside the residence for information/communication-based employment by a resident so long as the residence exhibits no external evidence, such as visitors to the home, is a personal home office. This use is allowed by right in all Districts with no local permit required. [2004]
- X. **Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Wyoming County Building and Code Department.**
- Y. **Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Wyoming County Building and Code Department.**
- Z. **Roof-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:**
  - 1. **The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.**
  - 2. **Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district in which they are located.**
  - 3. **Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design standards:**
    - A. **Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.**
    - B. **No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.**
    - C. **If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.**

**D. If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way**

- 4. Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the local zoning code or other land use regulations, excepting the requirement to obtain a building permit as required in paragraph Z (above).**

**AA. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Warsaw shall be permitted only as follows:**

- 1. Any inconsistent provisions of the Code of the Town of Warsaw which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.**
- 2. All Solar Energy Systems existing on the effective date of this Section shall be “grandfathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section.**
- 3. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.**
- 4. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.**
- 5. This Section shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Zoning Ordinance of the Town of Warsaw.**
- 6. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer’s badge, safety information and equipment specification information.**
- 7. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.**
- 8. Abandonment and Decommissioning.**
  - A. If the use of an approved Solar Energy System is discontinued, the permit holder, owner or operator shall provide written notice to the Wyoming County Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered**



**inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.**

- B. Determination of Abandonment or Inoperability.** A determination of the abandonment or inoperability of a Solar Energy System shall be made by the County Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the permit holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Warsaw Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder, owner or operator and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
- C. Removal.** All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Warsaw Zoning Board of Appeals or the Planning Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the permit holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the permit holder, system owner or owner of the

property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

- i. Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by Section 1121 (B) (9).
- ii. In the event that permit holder, the then owner of the Type 2 Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

9. **Revocation.** If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Warsaw Zoning Board of Appeals holds a hearing on same as provided for herein.