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A LOCAL LAW TO AMEND CHAPTER 110-33.2 – ENERGY CONSERVATION AREAS

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

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

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

Solar Energy Law

Chapter 110 Zoning

[HISTORY: Adopted by the Board of Trustees of the Village of Mount Kisco 3-27-1984 by L.L. No. 1-1984; amended in its entirety 10-13-1987 by L.L. No. 8-1987. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Greenway Compact Plan — See Ch. **11**.
Planning Board — See Ch. **25**.
Building construction — See Ch. **51**.
Flood damage prevention — See Ch. **66**.
Housing practices — See Ch. **74**.
Signs, awnings and marquees — See Ch. **89**.
Streets and sidewalks — See Ch. **93**.
Subdivision of land — See Ch. **94**.
Wetlands and drainage control — See Ch. **107**.
Fees — See Ch. **A112**.
Rules and procedures of Zoning Board of Appeals — See Ch. **A113**.

Article I Purpose

§ 110-1 Purpose.

There is hereby established a new Comprehensive Zoning Law for the Village of Mount Kisco,

New York, which law is set forth in the text and map that constitute this chapter. This chapter is adopted for the purposes set forth in the Village Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

- A. To guide the growth and development of the Village in accordance with the Village's Master Plan for land use, population density and intensity of development.
- B. To promote a beneficial relationship between land uses and the efficient and adequate provision of public facilities and services.
- C. To preserve and protect environmentally sensitive areas and to encourage the sound management of the Village's natural resources in order to protect the integrity, stability and aesthetics of the Village.
- D. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space.
- E. To ensure adequate and appropriate sites for residence, industry and commerce.
- F. To protect residential neighborhoods, including the preservation of such areas from the intrusion of incompatible land uses.
- G. To provide privacy for families.
- H. To prevent and reduce traffic congestion and hazards so as to promote efficient and safe passage of vehicles and pedestrians.
- I. To gradually eliminate nonconforming uses.
- J. To enhance the character and appearance of the Village of Mount Kisco as a whole.
- K. Westchester County Greenway Compact Plan. By Local Law No. 3 of the Year 2007, the Village/Town of Mount Kisco has adopted the Compact Plan, as amended from time to time, as a statement of policies, principles, and guides to supplement other established land use policies in the Village/Town. In its discretionary actions under this zoning code, the reviewing agency should take into consideration said statements of policies, principles and guides, as appropriate. **[Added 11-5-2007 by L.L. No. 3-2007]**

Article II

Establishment of Districts; Map

§ 110-2 Enumeration of districts.

[Amended 10-17-1988 by L.L. No. 5-1988; 10-21-1996 by L.L. No. 3-1996; 4-21-2003 by L.L. No. 2-2003]

The Village of Mount Kisco is hereby divided into 25 zoning districts. The use, height and area

regulations are set out herein and listed below.

Abbreviated Designation	Zoning District Name
PD	Preservation District
CD	Conservation Development District
RS-12	Low-Density One-Family Residence District
RS-9	Moderate-Density One-Family Residence District
RS-6	Medium-Density One-Family Residence District
RT-6	One- and Two-Family Residence District
RM-10	Moderate-Density Multifamily District
RM-12	Medium-Density Multifamily District
RM-29	High-Density Multifamily Residence District
CB-1	Central Business District - 1
CB-2	Central Business District - 2
GR	General Retail District
CN	Neighborhood Commercial District
CL	Limited Commercial District
OG	General Office District
OD	Low-Intensity Office District
OC	Cottage Office District
RD	Research and Development District
ML	Light Manufacturing District
SC	Service Commercial District
GC	General Commercial District
H	Hospital District
R	Recreation District
PWSF	Personal Wireless Service Facilities Overlay District
PRD	Planned Residential Development District

§ 110-3 **Zoning Map.**

[Amended 2-2-1988 by L.L. No. 1-1988; 6-6-1988 by L.L. No. 2-1988; 10-17-1988 by L.L. No. 5-1988; 7-1-1991 by L.L. No. 7-1991; 6-1-1992 by L.L. No. 10-1992; 11-21-1994 by L.L. No. 9-1994; 10-21-1996 by L.L. No. 4-1996; 11-3-1997 by L.L. No. 7-1997]

The boundaries of said district are hereby established as shown on the Zoning Map, Village/Town of Mount Kisco, dated October 1997, which accompanies this law and which, with all explanatory matters thereon, is hereby adopted and made a part of this chapter. Said map, indicating the latest amendments, shall be kept up to date in the office of the Village Clerk for the use and benefit of the public. A copy of said map shall be kept on file in the office of the Village Building Inspector.

§ 110-4 District boundaries.

In determining the boundaries of districts shown on the map, the following shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the graphic scale appearing on said map.

§ 110-5 Conformity required; effect on existing lots and building permits.

Following the effective date of this chapter:

- A. Conformity required.

(1) No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.

(2) No yard or open space required in connection with any building or use shall be considered as providing the required yard or open space for any other building on the same or any other lot.

(3) Except as permitted hereinafter, no lot shall be formed from part of a lot already occupied by a building unless such building, along with all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.

- B. (Reserved)

- C. Nothing contained in this chapter shall require any change in the plans, construction or use of a building complying with local laws in force prior to the effective date of this chapter, provided that:

(1) A building permit was duly issued prior to the effective date of this chapter and is in effect at the time of its enactment; and

(2) Substantial construction occurred prior to the effective date of this chapter.

Article III District Regulations

§ 110-6 PD Preservation District.

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

A. Purpose and intent.

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

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

(1) Principal uses.

- (a) Public parks, playgrounds or similar recreational areas, including customary recreational, refreshment and service buildings and uses.
- (b) Natural open space areas and uses designed for environmental or ecological preservation.
- (c) Public buildings or uses operated by the Village of Mount Kisco, the Bedford Central School District or other governmental entities.

(2) Special permit uses.

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

[1] Minimum lot size shall be 25 acres.

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

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

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

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

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

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

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

(3) Accessory uses.

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

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

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

§ 110-7 CD Conservation Development District.

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

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

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

C. Development regulations.

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

- (a) Site regulations:

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

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

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

(b) Lot regulations:

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

(c) Additional regulations.

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

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

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

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

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

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

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

- (a) Minimum lot area and site requirements: 25 acres [parcel having frontage and access on a county or state road.](#)**
- (b) Maximum building coverage 1% of net lot area and shall be limited to [battery/equipment storage.](#)**
- (c) Maximum development coverage: 235%.**
- (d) Minimum building setback:**
 - [1] Front: 200 feet.**
 - [2] Side: 200 feet.**
 - [3] Rear: 200 feet.**

(e) Minimum buffers:

<u>From</u>	<u>Distance (feet)</u>
<u>Major street</u>	<u>200 or 300</u>
<u>Street</u>	<u>±200 or 300</u>
<u>Public or quasi-public recreation use</u>	<u>200 or 300</u>
<u>Property line</u>	<u>±200 or 300</u>

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