

# **DUANESBURG TOWN SOLAR COMMITTEE**

Meeting Agenda

Oct. 11, 7 p.m.

1. Discussion with Fire Department
  1. Emergency Response
  2. Battery Storage
2. GIS Analysis of Area Available for Solar Given Setbacks and Other Conditions
3. Continue Review of Solar Law Project Requirements

Visual Impact

Decommissioning Cost Updates

Decommissioning Security

Road Use Agreement

Zoning Districts

Construction Hours

Site Plan Requirements in Zoning Law

Blasting

Annual Report

Drainage

Fencing

Property Values

Legal Issues

1. Inconsistency with Other Laws
2. Insurance
3. Indemnification
4. PILOT

# EMERGENCY RESPONSE REQUIREMENTS

## **Alternative #1 — Current Duanesburg Draft**

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public and private, shall be made. Any proposed new access road will be reviewed for fire safety purposes by the Town Building Inspector and the Chief of the Fire Company that serves the area containing the property.

## **Alternative #2 — Town of Florida**

Applications shall require review and approval by the nearest fire department for accessibility of emergency vehicles and equipment prior to site plan review.

When any solar energy system is installed and before it becomes active, the owner of the site and/or the solar energy system must contact the Town's emergency response departments to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This shall include detailed discussion related to the location of labeled warnings, access to the site, and information on emergency disconnection of the system. In addition, the Town may require a plan for installation regarding the location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

## **Alternative #3 — Town of Somerset**

Applications shall include a safety plan (including communication with emergency service providers).

A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following information:

1. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
2. Procedures for inspection and testing of associated alarms, interlocks, and controls.
3. Procedures to be followed in response to notifications from the solar energy system and/or battery energy storage system that, when provided, could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
4. The property must be inspected after a National Weather Service designation of a Severe Weather Watch or Severe Weather Warning to ensure that the property did not sustain damage. Report to be filed with Town Planning Board.
5. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire

department, evacuating personnel, de-energizing equipment, and controlling and/or extinguishing the fire.

6. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
7. Procedures for dealing with solar energy system and/or battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility. System owner shall provide guaranteed non-emergency and emergency response times of a qualified subject matter expert to the Town Hall and local first responders.
8. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, that shall include but not be limited to a smoke plume test for evacuation purposes. All smoke plum testings shall be made public.
9. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures. Training of local first responders shall be done semi-annually. Training in a classroom setting shall be done annually in the winter and an onsite training session shall be done annually in the spring. This training shall include local and mutual aid first responders.
10. The system owner shall notify the local fire department, county emergency management office and the town hall at least one week prior to any scheduled maintenance or battery swap out.
11. In the event of a fire, all contaminated soil must be removed and disposed of properly, in accordance with all applicable laws.

# **BATTERY ENERGY STORAGE**

## **Suggested Language from NYSERDA Model Law**

### SMALL-SCALE SOLAR ENERGY SYSTEMS

Battery Energy Storage Systems associated with a Small-Scale Solar Energy System shall have an energy capacity of no more than 600 kWh and shall comply with all applicable provisions of Section 1206 of the Uniform Code of New York state. A building permit and an electrical permit shall be required for installation of all Battery Energy Storage Systems.

### UTILITY-SCALE SOLAR ENERGY SYSTEMS

#### **General Requirements**

Code Compliance - Battery Energy Storage Systems shall comply with all applicable provisions of Section 1206 of the Uniform Code of New York state. A building permit and an electrical permit shall be required for installation.

Commissioning Plan - Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery Energy Storage System commissioning shall be conducted by a New York state-licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the town code enforcement officer prior to final inspection and approval, and maintained at an approved on-site location.

Fire Safety Compliance Plan - Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

Operation and Maintenance Manual - Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.

System Certification - Battery Energy Storage Systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 (Standard for Battery Energy Storage Systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards, as applicable:

- 1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
- 2) UL 1642 (Standard for Lithium Batteries),
- 3) UL 1741 or UL 62109 (Inverters and Power Converters),
- 4) Certified under the applicable electrical, building and fire prevention codes as required,
- 5) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

Safety - Battery Energy Storage Systems, components and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof

enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

Noise - Battery Energy Storage Systems shall be located as close as practicable to the center of the solar panel array and shall not cause the Solar Energy System to exceed the noise limits specified in Section Seven of this law.

Signage - Signs shall comply with ANSI Z535 and include the type of technology associated with the Battery Energy Storage System, any special hazards, the type of suppression system installed in the area of the battery system, and 24-hour contact information, including reach-back phone number.

Vegetation and Tree-Cutting - Areas within 10/20 feet (pick one) on each side of the Battery Energy Storage System shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants may be used as ground cover provided they do not form a means of readily transmitting fire.

## **Definitions**

ANSI - American National Standards Institute

Battery Energy Storage System - One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

Energy Code - The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

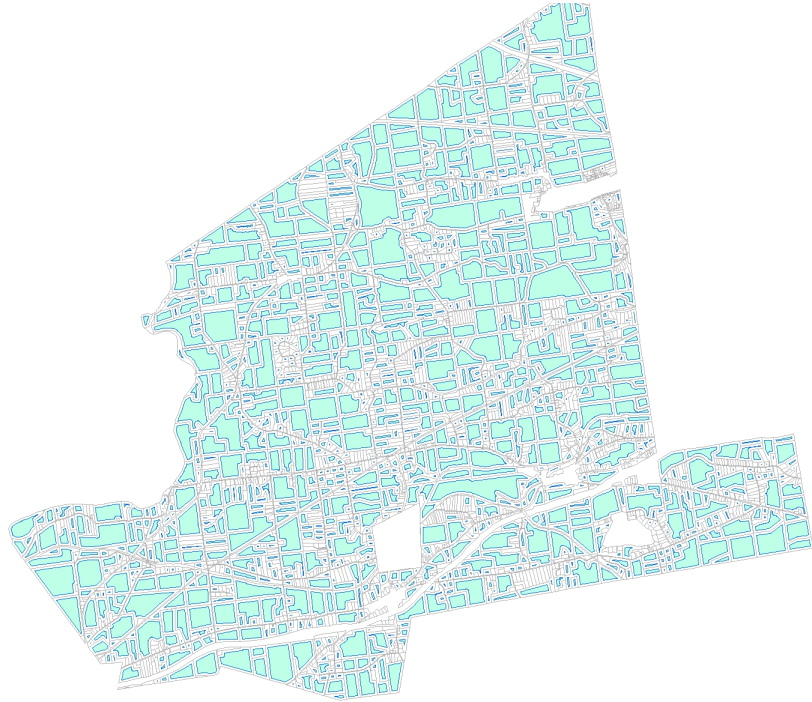
NFPA - National Fire Protection Association.

Nationally Recognized Testing Laboratory - A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

UL - Underwriters Laboratory, an accredited standards developer in the United States.

Uniform Code - The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**POSSIBLE SOLAR PARCELS WITH 200-FT. SETBACK**



## VISUAL IMPACT

### **Current Duanesburg Language:**

A minimum 25-foot perimeter buffer, consisting of natural and undisturbed vegetation, shall be provided around all mechanical equipment and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways.

Evergreen tree plantings may be required to screen portions of the site from nearby residential property, public roads and from public sites known to include important views or vistas.

### **2021 Revised Duanesburg Language:**

A minimum 100 feet perimeter buffer, consisting of natural and undisturbed vegetation, shall be provided around all mechanical equipment and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways. Where the natural and undisturbed vegetation does not screen the views from the mechanical equipment and solar panel arrays, the Planning Board may require the Applicant to enhance the perimeter buffer to improve its ability to screen the views.

Evergreen tree plantings or other visual screening may be required by the Planning Board to screen all or portions of the site from nearby residential property, public roads and from public sites known to include important views or vistas.

### **Strict Requirement (Rush)**

A landscape buffer shall be provided around the [utility-scale] Energy System to provide screening from adjacent properties. The [utility-scale] Solar Energy System shall be completely screened from any adjacent property. To accomplish this screening, existing vegetation shall be utilized to the fullest extent practicable and/or at least two rows of native evergreen trees or other screening acceptable to the Planning Board which is capable of forming a continuous hedge at least 14 feet in height at planting shall be required and maintained. A two-year warranty shall be provided for any screening installed as part of the [utility-scale] Energy System. The minimum screening requirement may be waived if the Planning Board determines that some other suitable vegetation or feature already exists to achieve complete screening.

### **Alternative (Schoharie, Sharon et. al.)**

The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from:

- (1) Publicly dedicated roads and highways, including . . .
- (2) Existing residential dwellings located on contiguous parcels.

A berm, landscape screen or other opaque enclosure, or any combination thereof acceptable to the Town capable of fully screening the site, shall be provided.

## VISUAL IMPACT Continued

### Proposed Language:

The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or at the very least minimize visual impacts as viewed from public locations, public dedicated roads and highways, residences located on contiguous parcels, or other locations identified by the Planning Board. Acceptable screening would include maintenance of existing vegetation, new vegetative barriers or berms, landscape screen or other opaque enclosures, or any combination thereof acceptable to the Town capable of fully screening the site. The applicant shall guarantee that all plantings that form part of the approved landscape and screening plan will maximally screen the system within five {5} years or less and remain until the facility is decommissioned.

1) When the site is surrounded by existing mature trees, a buffer where no trees shall be cut shall be established and maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed so as to encourage healthy growth of existing trees. All other dimensions with regards to setbacks will still apply.

2) Trees to be included in screening shall be a minimum of 8' tall and 3" in diameter. Eastern red cedar, and white spruce are examples of acceptable evergreen trees to include in screening. It shall be determined and documented by the developer if at the time of planting if any species are threatened due to regional blight, disease, etc.

3) The Planning Board shall require creation of a buffer that has an offset, double row of densely growing evergreens with the addition of some smaller trees and shrubs in front to create more of a naturalized hedgerow habitat. The double row will provide additional screening early while the trees are still small. While the evergreens should be the dominant tree for screening, addition of some smaller trees and shrubs would be beneficial for wildlife and aesthetics.

Appropriate shrubs and small trees to include to create a hedgerow could be shadbush, flowering dogwood, serviceberry, flowering raspberry, maple leaved viburnum, nannyberry, and choke cherry.

4) The Planning Board shall ensure maximum buffering and screening of utility-scale solar systems that are determined to be within or can be seen from Route 20, Route 30 or Routes 7 and I-88 plus any other Scenic Byway Corridors as evidenced from the viewshed.

5) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists. The Planning Board reserves the right to individually assess what they deem to be sensitive areas on any proposed solar facility site as part of their review to ensure that negative impacts of solar ray reflection will be prevented. All solar panels shall have anti-reflective coating(s) not identified as a hazardous material by the U.S. Environmental Protection Agency, unless an applicant demonstrates the hazardous material is unlikely to cause harm to people, plants or animals when released into the environment. The applicant shall adhere to all federal and state laws, regulations and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films.

6) All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.



## DECOMMISSIONING COST UPDATES

### **2021 Revised Duanesburg Language:**

The deposit, executions or filing with the Town Clerk of cash, bond or other form of security reasonably acceptable to the Town Board and/or the professional engineer advising the Town, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the solar energy system and restoration of the site subsequent to removal. The amount of the bond or security shall be 125 percent of the estimated cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index if more than the annual escalator of 2 percent) for the life of the solar energy system. The Decommissioning Agreement shall specify the amount of the bond and the form of the bond or equivalent financial security. No building permit shall be issued until the bond or equivalent financial security is in full force and effect, and has been provided to the Town Clerk.

### **Alternative (Town of Glen):**

Prior to the start of construction, a surety bond to cover the full cost of the removal and disposal of the utility-scale solar energy system and any associated accessory structures shall be provided by the owner/operator. The owner/operator shall provide an updated Decommissioning Cost Estimate, accounting for anticipated rates of inflation, prepared by a Town-designated N.Y.S. licensed engineer, every two years, and the decommissioning surety bond shall be adjusted, if necessary, to reflect the then current decommissioning cost. Any such surety bond must be provided pursuant to a Decommissioning Agreement with the Town, approved by the Town Board and Town Attorney as to form, sufficiency and manner of execution. All surety bonds must be evergreen and must be provided by an A-rated institution.

## DECOMMISSIONING SECURITY

### **2021 Revised Duanesburg Language:**

The deposit, executions or filing with the Town Clerk of cash, bond or other form of security reasonably acceptable to the Town Board and/or the professional engineer advising the Town, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the solar energy system and restoration of the site subsequent to removal. The amount of the bond or security shall be 125 percent of the estimated cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index if more than the annual escalator of 2 percent) for the life of the solar energy system. The Decommissioning Agreement shall specify the amount of the bond and the form of the bond or equivalent financial security. No building permit shall be issued until the bond or equivalent financial security is in full force and effect, and has been provided to the Town Clerk.

### **Recommendation of Town Attorney:**

Security shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the solar energy system and restoration of the site subsequent to removal. The Security shall be an evergreen letter of credit issued by an A-rated financial institution (relating to Standard & Poor's Rating Services, Inc. ("S&P") or any successor agency thereto) or an A3 rating financial institution (relating to Moody's Investor Services ("Moody's") or any successor rating agency thereto)) on behalf of the company in the amount set forth in Exhibit \_\_\_\_, substantially in the form attached hereto as Exhibit \_\_\_\_ and issued 30 days before the solar panels are to be installed upon the project site. The amount of the bond or security shall be 125 percent of the estimated cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index if more than the annual escalator of 2 percent) for the life of the solar energy system, and shall not take into account the net salvage value of any such project components. The security established by the agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding. No building permit shall be issued until the financial security is in full force and effect, and has been provided to the Town Clerk.

# ROAD USE AGREEMENT

## **Current Duanesburg Language:**

Not included.

## **2021 Revised Duanesburg Language:**

Not included.

## **Alternative #1 (Caledonia) (Preferred by Town Supervisor and Highway Superintendent):**

Utility-scale solar energy systems shall be required to obtain a road use permit and enter into a road maintenance agreement acceptable to the Highway Superintendent. Prior to the commencement of construction of the solar energy system, an existing condition survey of the approved hauling routes shall be done. Any road damage during construction that is caused by the operator or one or more of its subcontractors that is identified by the New York State Department of Transportation, Schenectady County or the Town of Duanesburg shall be repaired or reconstructed to the satisfaction of the respective highway agency at the operator's expense, prior to final inspection. In addition, the operator shall pay for all costs of NYSDOT, Schenectady County and Town of Duanesburg pre-inspection work prior to receipt of the final inspection.

## **Alternative #2 (Florida):**

If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof, the property of the Town of Duanesburg, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc. is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of the damage, completely replace or repair all damage to the satisfaction of the Town.

## ZONING DISTRICTS

The town's zoning ordinance establishes eight zoning districts. Utility-scale solar energy facilities are allowed in three — R-2 (Agricultural/Residential), C-1 (Commercial) and C-2 (Manufacturing/Light Industrial). We need to consider whether to apply all permitting requirements in all three districts, or whether to limit some to the two non-industrial zoning districts. Such a distinction would treat solar energy facilities equitably with other industrial uses. The lists below present a recommended classification; the specific items are debatable.

### Apply in R-2, C-1 and C-2 Zones

Code Compliance

Fencing

Signs

Visual Impact

Panel Height

Lot Coverage

Wetlands

Lighting

Access & Parking

Slopes

Vegetation

Ownership Changes

Project Changes

Certification

Emergency Response

Battery Energy Storage Systems

### Apply in R-2 and C-1 Zones Only

Deforestation

Setbacks

Wildlife

Agriculture

Underground Wiring

Noise

## CONSTRUCTION HOURS

### **Current Duaneburg Language:**

Not included.

### **2021 Revised Duaneburg Language:**

Not included.

### **NYS Section 94-c Provision:**

7 a.m. to 8 p.m. Monday through Saturday

8 a.m. to 8 p.m. Sundays and holidays

Total = 90 hours / week

Deliveries allowed before and after these hours

### **Town of Ripley Provision:**

8 a.m. to 6 p.m. Monday through Friday

10 a.m. to 4 p.m. Saturday

No work on Sunday

Total = 56 hours / week

Language:

Project Construction Hours: Pre, post and during construction working hours shall be limited to Monday through Friday between the hours of 8 a.m. and 6 p.m. and Saturday between the hours of 10 a.m. and 4 p.m., Eastern Standard Time, to ensure the quiet rural characteristics of the Town.

## SITE PLAN REQUIREMENTS

In addition to the solar-specific application requirements in this law, the town's zoning ordinance includes an extensive list of information required for Site Plan Approval. Some of these are applicable to solar facilities, some are not, some are in both laws.

Consider the following language to clarify what is required (see yellow highlight):

All applications for utility-scale solar energy systems shall include the following:

(1) A site plan prepared by a professional engineer registered in New York State including:

(a) Property lines and physical dimensions of the site;

(b) Location, approximate dimensions and types of existing structures and uses on the site, public roads, and other properties within 500 feet of the boundaries of the site;

(c) Location and description of all solar energy system components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval;

(d) Location of all above and below-ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures, including accessory facilities or equipment;

(e) Locations of setback distances as required by this law;

(f) All other proposed facilities, including electrical substations, storage or maintenance units, and fencing;

(g) All site plan application materials required under Section 14.6.1.4 of the Zoning Law of the Town of Duaneburg. The Planning Board may waive those items in Section 14.6.1.4 that it deems inapplicable to a solar energy system application.

## **BLASTING**

### **Current Duanesburg Language:**

Not included.

### **2021 Revised Duanesburg Language:**

Not included.

### **Alternative:**

Consider the following restriction (quoted from Town of Ripley solar law):

Blasting - Any and all types of blasting are prohibited at all stages of the project.

# ANNUAL REPORT

## **Current Duanesburg Language:**

Not included.

## **2021 Revised Duanesburg Language:**

Not included.

## **Alternative (Glen):**

On a yearly basis, the solar energy system owner shall provide the Town a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid. The report shall also identify any change of ownership of the system and shall be submitted no later than 30 days after the end of the calendar year.

## **Alternative (Somerset):**

The owner and/or operator of a solar energy system must submit to the Town's code enforcement officer a yearly report, due no later than February 15, which is certified as accurate and complete under penalty of perjury and contains the following information:

- i) The rated capacity of the system;
- ii) The amount of electricity generated by the system in the most recent 12-month period;
- iii) The amount of electricity transmitted to the power grid in the most recent 12-month period;
- iv) Identifying any change of ownership of the solar energy system or the owner of the land on which it is sited;
- v) Identifying any change in the party responsible for decommissioning and removal of the system upon its abandonment;
- vi) Evidence that the surety required for decommissioning remains in effect and is irrevocable for at least the next two years;
- vii) Annual testing of groundwater and wells and a report of the findings.



## **DRAINAGE**

### **Current Duanesburg Language:**

Not included.

### **2021 Revised Duanesburg Language:**

Not included.

### **Alternative (paraphrased from Somerset):**

Solar energy systems must comply with New York state stormwater regulations. The Stormwater Pollution Prevention Plan required in the application must demonstrate that the solar system will not create adverse drainage, runoff or hydrology conditions that could impact adjoining and other non-participating properties.

## FENCING

### **2021 Revised Duanesburg Language:**

All electrical and control equipment, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such equipment shall be enclosed with a seven-foot high fence as required by the National Electric Code.

### **Alternative (Guilderland):**

*Same as above, adding:*

Perimeter fencing shall allow for the movement of small wildlife by using fixed-knot woven wire or other wildlife-friendly fencing. Barbed wire fencing is prohibited.

## INCONSISTENCY WITH OTHER LAWS

### **Suggest Following Provision Under “Applicability” Section:**

To the extent that any other town law, rule or regulation, or parts thereof, are inconsistent with the provisions of this law, the provisions set forth in this law shall control only as they pertain to solar energy systems.

# INSURANCE

## **Current Duanesburg Language:**

Not included.

## **2021 Revised Duanesburg Language:**

Not included.

## **Alternative #1 (Florida):**

The owner or operator shall maintain general liability insurance coverage on any solar energy system in the amounts of \$1,000,000 for injuries and \$500,000 for property damages, naming the Town as additional insured.

## **Alternative #2 (Copake):**

The operator of a utility-scale solar energy system shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount approved by the Planning Board. Such insurance shall name the Town as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days' prior notice has been provided to the Town. In the event of termination, cancellation or lapse of the required insurance coverage, the operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.

## **Alternative #3 (Caledonia, Cambria & Somerset):**

A. The holder of a Special Use Permit for a solar energy system shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town Board for smaller systems):

- a) Commercial general liability covering personal injuries, death and property damage: \$1,000,000/\$5,000,000 (*amounts vary*) per occurrence (\$2,000,000/\$10,000,000 (*amounts vary*) aggregate), which shall specifically include the Town and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
- b) Umbrella coverage: \$5,000,000/\$10,000,000 (*amounts vary*)

B. Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".

C. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.

D. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

E. Copies of Insurance Policy: No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

F. Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.

## INDEMNIFICATION

### **Current Duanesburg Language:**

Not included.

### **2021 Revised Duanesburg Language:**

Not included.

### **Alternative #1 (Copake):**

The applicant, owner and operator of the utility-scale solar energy system shall release and hold harmless the Town and all of its officers, officials, employees, appointees, agents and servants from and against any and all liability and responsibility for any and all accidents, injuries and/or damages of any kind to persons (including death) or property arising out of the installation, construction, operation, maintenance, repair or removal of such system. The applicant, owner and operator shall indemnify and hold harmless the Town and its officers, officials, employees, appointees, agents and servants from any and all claims, suits, actions, damages, awards, judgements and costs of every nature, including reasonable attorneys' fees, arising out of the installation, construction, operation, maintenance, repair or removal of such system or of the Town providing services related to the utility-scale solar energy system.

### **Alternative #2 (Cambria & Somerset):**

Any application for a solar energy system within the Town shall contain an indemnification provision. The provision shall require the applicant/owner/operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity, which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said solar energy system, excepting however any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages or changes referenced herein, reasonable attorneys' fees, consultant fees and expert witness fees are included in those costs that are recoverable by the Town.

## PILOT AGREEMENT

### Current Duanesburg Language:

Not included.

### 2021 Revised Duanesburg Language:

Not included.

### Alternative (Caledonia):

- A. The operator of a utility-scale solar energy system shall be required to enter into an agreement for a payment in lieu of taxes (PILOT) with the Town pursuant to Real Property Tax Law Section 487. This PILOT agreement shall be drafted by the town attorney in consultation with the town assessor, town supervisor and the county Industrial Development Agency (IDA). A PILOT agreement executed with the county IDA, acceptable to the Town, in its sole discretion, for the solar energy system may serve to meet the requirements of this section.
- B. No building permit shall be issued or construction commenced for a solar energy system requiring a PILOT until such time as the PILOT agreement has been executed by all parties and recorded at the Office of the County Clerk.
- C. The PILOT shall run to the benefit of the Town and be executed by the operator and the owners of the real property upon which the solar energy system is to be located and such signatures be notarized in such a way that allows the PILOT agreement to be recorded at the Office of the County Clerk. Prior to commencement of construction, the PILOT agreement shall be recorded at the Office of the County Clerk as a lien on the property and indexed against the property/properties upon which the solar energy system is to be constructed. The intent of the above provisions is so that should the operator of the solar energy system default with regard to such PILOT agreement, that such obligation will become the responsibility of the then owner of the property upon which the solar energy system is sited and that failure to satisfy the terms of such agreement will permit the Town to enforce such agreement as against the owner.

# PROPERTY VALUES

## **Current Duanesburg Language:**

Not included.

## **2021 Revised Duanesburg Language:**

Not included.

## **Strict Requirement (Guilderland)**

The Zoning Board shall confirm compliance with [requirements for major solar energy systems], and shall make the following affirmative findings:

2. The major solar energy system will not adversely materially affect the value, use or enjoyment of neighboring properties;

## **Alternatives:**

### **Cherry Valley**

Applications shall include a property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact on values of properties neighboring solar energy generating sites. Such analysis should include actual data concerning the impacts of previously constructed facilities in the State of New York on property values.

### **Alliance for Wise Energy Decisions (model law)**

The Solar Energy Facility applicant shall assure the Town that there will be no loss in real property value for any property with 1,000 feet of the Solar Energy Facility. To legally support this claim, the Applicant shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the Solar Electric Facility. This agreement shall provide assurance to non-participating real property owners near the Solar Electric Facility that they have some protection from Solar Electric Facility-related real property value losses.

The applicant guarantees that there will be no loss in real property value within 1,000 feet of the Solar Electric Facility, due to the Solar Electric Facility. Any real property owner(s) included in that area who believe that their property may have been devalued due to the Solar Electric Facility, may elect to exercise the following option:

All appraiser costs are paid by the applicant, from the escrow account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property (“Diminution Value”), caused by the proximity to the Solar Electric Facility. This shall be determined by calculating the difference between the current Fair Market Value of the real property and what the Fair Market Value would have been at the time of exercising this option, assuming no Solar Electric Facility was proposed or constructed.

*Suggested language goes on to describe at length how solar operator will compensate neighboring property owners.*