

TOWN OF ROSENDALE

PROPOSED ORDINANCE

Section 75-59

Solar Photovoltaic Systems

March 10, 2020

A new Article XIV, Section 75-59 entitled “Solar Photovoltaic (PV) Systems” is hereby added to Section 75 “Zoning” of the Town of Rosendale Municipal Code to read as follows:

75-59 Solar Photovoltaic (PV) Systems

A. Purpose

It is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this Chapter is to facilitate the development and operation of renewable energy systems based on sunlight through utilization of solar access for each parcel. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare of the community. Solar farms should complement the municipality and its residents’ way of life. This legislation is not intended to override agricultural exemptions that are currently in place.

B. Intent.

This Solar PV Systems Code has been written with the intent of addressing the goals laid out in the Town of Rosendale Comprehensive Plan for increasing energy efficiency throughout the Town. This code also intends to provide a local framework in support of New York State in meeting its renewable energy goals.

C. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated, unless the context or subject matter requires otherwise.

ACCESSORY MAJOR SOLAR COLLECTION SYSTEM - Energy generation facility or area of land that is accessory to the primary use of the parcel where the panels are used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies for use by the primary use on the parcel. Accessory Major Solar Collections facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and head exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities capable of producing in excess of 25 KW in photoelectric generating capacity.

BUILDING - INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS - A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade and which does not alter the relief of the roof.

COLLECTIVE/COMMUNITY SOLAR - Solar installations owned or subscribed to

collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, community credit purchase or other similar arrangements.

FLUSH MOUNTED SOLAR PANEL - A photovoltaic panel or tile that is installed flush to the surface of a roof or wall of a principal and/or accessory structure and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM - A solar collector system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered Freestanding or Ground-Mounted Solar Energy Systems for purposes of this Local Law.

GLARE – The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

INVERTER – A piece (or pieces of) equipment that convert Direct Current (DC) electricity to Alternating Current (AC) electricity used in buildings, structures and the power grid.

MINOR SOLAR COLLECTION SYSTEM – A solar photovoltaic cell, panel or array, or solar hot air or water collector device that is building or ground-mounted, 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 with the total photoelectric generating capacity of all solar collectors on the lot not to exceed production of 25 KW.

MAJOR SOLAR COLLECTION SYSTEM OR SOLAR FARM - Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, 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 capable of producing in excess of 25 KW in photoelectric generating capacity.

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 at the end of the month.

PHOTOVOLTAIC (PV) SYSTEMS - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received

safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development authority (NYSERDA), or who are certified as a solar installer by the North American Board Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

ROOFTOP OR BUILDING MOUNTED SOLAR COLLECTOR SYSTEM - A solar collector system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward an optimal angle.

SENSITIVE RECEPTOR LOCATION – Properties, buildings, structures, facilities and/or other entities with a potential view of a proposed solar system. These can include but are not necessarily limited to, at the discretion of the Planning Board: parks, historic properties/structures/landmarks, churches, cemeteries, scenic byways, national natural landmarks, wildlife refuges, rare/threatened/endangered species habitats, lands under conservation easement or other significant properties/structures as designated by the Planning Board.

SETBACK - The distance from a front lot line, side lot line or rear lot line of a parcel within which a free standing or ground mounted solar energy system is installed.

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR ARRAY – A group of multiple solar modules with purpose of harvesting solar energy.

SOLAR COLLECTOR - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM - Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR FARM – See MAJOR SOLAR ENERGY COLLECTION SYSTEM

SOLAR PANEL - A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it

available in an electrical form.

D. Applicability.

1. The requirements of this local law shall apply to all solar energy system and equipment installations modified or installed after the effective date of this local law.
2. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.
3. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code and the Town Code.
4. Solar collectors, unless part of a Major Solar Collector System or Solar Farm, shall be permitted only to provide power for use by owners, lessees, tenants, residents, subscribers or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit “collective solar” installations or the sale of excess power through a “net billing” or “net-metering” or “community solar” arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute.
5. Nothing contained within this section shall preclude the Town from operating or leasing any solar energy system on Town-owned properties or assets, subject to the provisions contained within this section.

E. Minor Solar Collection Systems.

1. Rooftop and Building-Mounted Minor Solar Collector Systems: Rooftop and building mounted solar collectors are permitted in all zoning districts in the Town subject to the following conditions:
 - a. Building permits shall be required for installation of all rooftop and building-mounted solar collectors.
 - b. Rooftop and Building-Mounted Solar Collectors shall not exceed the maximum allowed height of the principal use in any zoning district.
 - c. With the exception of solar panels, all equipment associated with roof mounted collector systems, including but not limited to controls, energy

storage devices, heat pumps, inverters, exchangers, or other materials, hardware or equipment necessary for the process by which solar radiation is converted into another form of energy shall be reasonably screened from street view to the extent practicable.

2. **Building-Integrated Photovoltaic (BIPV) Systems:** BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for the building containing the system.
3. **Free Standing and Ground Mounted Minor Solar Collector Systems:** Free standing or ground mounted minor solar collector systems are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:
 - a. The ground mounted and freestanding minor solar collector systems shall meet the accessory building setback and location requirements per the Density Control Schedule listed in Section 075b of the Rosendale Town Code. Any ground mounted and freestanding minor solar collector systems that cannot meet these setback/location requirements and systems located on pre-existing/non-conforming lots/structures shall require the appropriate variance from the Town of Rosendale Zoning Board of Appeals.
 - b. Building permits are required for the installation of all ground-mounted and free standing minor solar collector systems.
 - c. The height of the ground-mounted and freestanding solar collector systems and any mounts shall not exceed sixteen (16) feet in any zone, when oriented at maximum tilt.
 - d. The total surface area of all minor solar collector systems on the lot shall not exceed 3,000 square feet or anticipated production of 25 KW, whichever is less, and, when combined with all other buildings and structures, including accessory structure, on the lot, shall not exceed the maximum lot coverage of the zone in which they are located.
 - e. Ground mounted and freestanding minor solar collector systems and other facilities shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
 - f. Ground mounted and freestanding minor solar collector systems shall be screened when possible and practicable from adjoining lots and street rights of way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. Any transition yard, buffer yard, landscaping, and barrier requirements per this code shall be adhered to when applicable.

The proposed screening shall not interfere with normal operation of the solar collectors.

- g. The area of the ground mounted and freestanding solar collector equipment pads shall be included in calculating whether the lot meets maximum permitted impervious coverage requirements for the applicable District. In accordance with New York State Stormwater Regulations, solar panels themselves for a Minor Solar Collection System shall not be included in the calculation of impervious surfaces on a project site.

F. Accessory Major Solar Collection Systems or Solar Farms.

Accessory Major Solar Collection Systems and Solar Farms shall be permitted under Site Plan Approval by the Town Board in all zoning districts, subject to the following supplementary regulations:

- 1. Height and setback restrictions:
 - a. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed sixteen (16) feet in height above ground at maximum tilt angle.
 - b. The minimum setback from front, side and rear property lines for freestanding panels and equipment shall be fifty (50) feet unless the setback requirement of the underlining zoning district is greater, at which point the greater setback distance shall apply. The minimum setback from front, side and rear property lines for fencing for freestanding Accessory Major Solar Collection Systems shall be twenty-five (25) feet. Any transition yard, buffer yard, landscaping, and barrier requirements per this code shall be adhered to when applicable.
- 2. Design Requirements:
 - a. A site plan set depicting the proposed Accessory Major Solar Collection System completed in accordance with §75-40(C) of the Rosendale Town Code sealed by a Professional Engineer registered in the State of New York shall be submitted with an application for Site Plan Approval.
 - b. Freestanding Accessory Major Solar Collection Systems shall be enclosed by an agricultural-style perimeter fence to restrict unauthorized access at a minimum height of 8 feet and a maximum of 10 feet. The need for further landscaping to mitigate visual impacts shall be considered during review by the Planning Board.
 - c. A sign not to exceed sixteen (16) square feet shall be displayed or near

the main access point and shall list voltage of the proposed system along with any other pertinent electric hazard warning and a phone number(s) for emergency personnel purposes.

- d. Ground mounted and freestanding Accessory Major Solar Collection Systems shall be screened when possible and practicable from adjoining lots and street rights of way through the use of existing vegetation, architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area and shall be at the discretion of the Planning Board. Any transition yard, buffer yard, landscaping, and barrier requirements per this code shall be adhered to when applicable. The proposed screening shall not interfere with solar access and the normal operation of the solar collectors.
- e. All panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- f. Stormwater retention and treatment systems shall be built in accordance with the Town of Rosendale MS4 and New York State Stormwater Design regulations for equipment pads, access roads, equipment structures and any other impervious surfaces proposed for a project.
- g. On-site power lines shall, to the maximum extent practicable, be placed underground.
- h. Removal of trees and other existing vegetation should be minimized to the best extent possible. On-site tree removal shall be conducted in accordance with New York State and U.S. Fish & Wildlife Service requirements where projects are located in the vicinity of rare, threatened and/or endangered species habitat.
- i. Driveways and access roads within the lot, if necessary, shall be a gravel or crushed stone surface and shall be designed to minimize the extent of roadways constructed, disturbance and soil compaction.
- j. An operation and maintenance plan shall be submitted for the project site detailing measures for maintaining safe access to the project site at all times, as well as general procedures for the operational maintenance of the facility (i.e. mowing, snow clearing, etc.) and emergency access by first responders.
- k. Any lighting proposed for security or other necessary purposes shall be at the discretion of the Planning Board. All lighting shall be in conformance with Rosendale Town Code and shall be IESNA Dark Sky

Compliant. Cut sheets for proposed fixtures and illumination spill (foot candle) diagrams shall be provided to the Planning Board if on-site lighting is proposed.

1. The Planning Board may require the Applicant to submit a wetland delineation report and map depicting federal and state jurisdictional streams and wetlands located on the project site. The Applicant should avoid impacts to wetlands and streams.
3. At the discretion of the Planning Board, a Decommissioning Plan and bonding for decommissioning may be required for Accessory Major Solar Collection Systems. If required by the Planning Board, the following requirements shall be met for decommissioning:
- a. Accessory Major Solar Collection Systems which have not been in active and continuous service for a period of 6 months shall be removed at the owners or operators' expense.
 - b. The site shall be restored to as natural a condition as possible within three (3) months of the removal.
 - c. A valid performance and payment bond assigned to the Town of Rosendale for Accessory Major Solar Collection Systems with dated and monetary amounts to be determined by the Planning Board for decommissioning purposes shall be provided as part of the Site Plan Review application. The cost estimate for decommissioning the facility that is part of the Decommissioning Plan described below shall be reviewed by the Planning Board and its consultant to determine its adequacy. The cost estimate provided by the Applicant shall demonstrate that it is in accordance with NYSERDA guidelines for decommissioning bonding.
 - d. If the applicant begins but does not complete construction of the project within eighteen (18) months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable. The Decommissioning plan shall include a cost estimate for decommissioning the project site at present value and in five (5) year increments with anticipated cost of escalation or appreciation factored into the future costs of decommissioning. If the cost for decommissioning at the time of renewal exceeds the amount of the bond posted with the Town of Rosendale, a new bond in the amount of the present decommissioning value or an additional bond representing the difference in cost of decommissioning between the original bond and

the current decommissioning estimate shall be submitted to the Town of Rosendale Building & Planning Department.

- e. Extension of time. The time at which an Accessory Major Solar Collection System/solar farm shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the Major Solar Collection System/solar farm has not been operating or why construction has not been completed may be considered by the Board in determining whether to gain an extension.
4. Any change of ownership and/or operation shall be submitted to the Town of Rosendale Building & Planning Department within thirty (30) days of sale along with proof of transfer, to include proof of bond commitment transfer/assignment.
5. The applicant shall submit a project narrative detailing the proposed project.
6. The applicant shall submit the appropriate Environmental Assessment Form (EAF) necessary to assist the Planning Board with its obligations under the New York State Environmental Quality Review Act (SEQRA).
7. The Planning Board may require the applicant to provide a visual impact assessment for a proposed Accessory Major Solar Collection System which can include, but is not necessarily limited to, before and after construction photosimulations of the proposed System from neighboring property owners, the nearest road(s) and/or sensitive receptor locations in the vicinity of the proposed system.

G. Major Solar Collection Systems or Solar Farms.

Major Solar Collection Systems and Solar Farms shall be permitted under Site Plan Approval and upon grant of a Special Use Permit by the Town Board in the **A, A-1, I-1, R-1 and R-2 districts**, subject to the following supplementary regulations:

1. Height and setback restrictions:
 - a. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed sixteen (16) feet

in height above ground at maximum tilt angle.

- b. The minimum setback from front, side and rear property lines for panels and equipment shall be fifty (50) feet unless the setback requirement of the underlining zoning district is greater, at which point the greater setback distance shall apply. The minimum setback from front, side and rear property lines for fencing for Major Solar Collection Systems shall be twenty-five (25) feet). Any transition yard, buffer yard, landscaping, and barrier requirements per this code shall be adhered to when applicable.

2. Design Requirements:

- a. A site plan set depicting the proposed Major Solar Collection System completed in accordance with §75-40(C) of the Rosendale Town Code sealed by a Professional Engineer registered in the State of New York shall be submitted with an application for Special Use Permit.
- b. Major Solar Collection Systems and Solar Farms shall be enclosed by an agricultural-style perimeter fence to restrict unauthorized access at a minimum height of 8 feet and a maximum of 10 feet. The fence shall have a self-closing/locking gate and the project developer will be required to install an emergency key access (“Knox”) box on the outside of the fence for site access by emergency personnel. The need for further landscaping to mitigate visual impacts shall be considered during review by the Planning Board.
- c. A sign not to exceed sixteen (16) square feet shall be displayed or near the main access point and shall list the facility name, owner and phone, voltage of the proposed system along with any other pertinent electric hazard warning and a phone number(s) for emergency personnel purposes.
- d. Ground mounted and freestanding solar collector systems shall be screened when possible and practicable from adjoining lots and street rights of way through the use of existing vegetation, architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area and shall be at the discretion of the Planning Board. Any transition yard, buffer yard, landscaping, and barrier requirements per this code shall be adhered to when applicable. The proposed screening shall not interfere with solar access and the normal operation of the solar collectors.
- e. The Applicant shall demonstrate in their submission how they will develop, implement, and maintain native vegetation and foraging habitat

beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

- f. All panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- g. Stormwater retention and treatment systems shall be built in accordance with the Town of Rosendale MS4 and New York State Stormwater Design regulations for equipment pads, access roads, equipment structures and any other impervious surfaces proposed for a project.
- h. On-site power lines shall, to the maximum extent practicable, be placed underground.
- i. Removal of trees and other existing vegetation should be minimized to the best extent possible. On-site tree removal shall be conducted in accordance with New York State and U.S. Fish & Wildlife Service requirements where projects are located in the vicinity of rare, threatened and/or endangered species habitat.
- j. Driveways and access roads within the lot shall be a gravel or crushed stone surface and shall be designed to minimize the extent of roadways constructed, disturbance and soil compaction.
- m. An operation and maintenance plan shall be submitted for the project site detailing measures for maintaining safe access to the project site at all times, as well as general procedures for the operational maintenance of the facility (i.e. mowing, snow clearing, etc.) and emergency access by first responders.
- k. Lighting proposed for security or other necessary purposes shall be at the discretion of the Planning Board. All lighting shall be in conformance with Rosendale Town Code and shall be IESNA Dark Sky Compliant. Cut sheets for proposed fixtures and illumination spill (foot candle) diagrams shall be provided to the Planning Board if on-site lighting is proposed.
- l. The Applicant shall submit a wetland delineation report and map depicting federal and state jurisdictional streams and wetlands located on the project site. The Applicant should avoid impacts to federal and state-jurisdictional wetlands and streams. The Applicant shall provide copies of any U.S. Army Corps of Engineers (federal) and/or NYSDEC (state) permits for proposed disturbance to federal and/or state-jurisdictional wetlands and/or streams.

3. The following requirements shall be met for decommissioning:
- a. Major Solar Collection Systems which have not been in active and continuous service for a period of months shall be removed at the owners or operators' expense.
 - b. The site shall be restored to as natural a condition as possible within three (3) months of the removal.
 - c. A valid performance and payment bond assigned to the Town of Rosendale for Major Solar Collection Systems with dated and monetary amounts to be determined by the Planning Board for decommissioning purposes shall be provided as part of the Special Use Permit application. The cost estimate for decommissioning the facility that is part of the Decommissioning Plan described below shall be reviewed by the Planning Board and its consultant to determine its adequacy. The cost estimate provided by the Applicant shall demonstrate that it is in accordance with NYSERDA guidelines for decommissioning bonding.
 - d. All applications for a Major Solar Collection System/solar farm shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the facility. If the applicant begins but does not complete construction of the project within eighteen (18) months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable. The Decommissioning plan shall include a cost estimate for decommissioning the project site at present value and in five (5) year increments with anticipated cost of escalation or appreciation factored into the future costs of decommissioning. All applicants receiving approval for a Major Solar Collection System/solar farm or their assigns, lessees and/or those purchasing the system from the original applicant shall be required to renew the Special Use Permit for the project every five (5) years after issuance of the Special Use Permit, and shall include the incremental five (5) year decommissioning estimate for the system. If the cost for decommissioning at the time of renewal exceeds the amount of the bond posted with the Town of Rosendale, a new bond in the amount of the present decommissioning value or an additional bond representing the difference in cost of decommissioning between the original bond and the current decommissioning estimate shall be submitted to the Town of Rosendale Building &

Planning Department.

- e. Extension of time. The time at which a Major Solar Collection System/solar farm shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the commercial solar PV system owner prior to abandonment as defined herein. Extenuating circumstances as to why the Major Solar Collection System/solar farm has not been operating or why construction has not been completed may be considered by the Board in determining whether to gain an extension.
4. Any change of ownership and/or operation shall be submitted to the Town of Rosendale Building & Planning Department within thirty (30) days of sale along with proof of transfer, to include proof of bond commitment transfer/assignment.
5. The applicant shall submit a project narrative detailing the proposed project.
6. The Applicant shall submit a “Proof of Concept” letter or copy of the interconnection agreement with the utility to the Planning Board.
7. The applicant shall submit the appropriate Environmental Assessment Form (EAF) necessary to assist the Planning Board with its obligations under the New York State Environmental Quality Review Act (SEQRA).
8. The Planning Board may require the applicant to provide a visual impact assessment for a proposed Major Solar Collection System which can include, but is not necessarily limited to, before and after construction photosimulations of the proposed System from neighboring property owners, the nearest road(s) and/or sensitive receptor locations in the vicinity of the proposed system.

H. Agricultural Property Requirements

1. Major Solar Collection Systems located upon active farmland located within the Town of Rosendale shall be allowed on soils classified as Prime Farmland Soils and Soils of Statewide Importance as defined by the National Resource Conservation Service and the New York State Department of Agriculture and Markets Agricultural Districts Law, once it can be determined, by the Planning Board, that there is no feasible alternative. The following standards are to be implemented by the Planning Board as part of site plan approval:

- a Where large-scale ground-mounted solar PV systems are to be located on Prime Agricultural Soils or Soils of Statewide Importance, then the following shall apply to the construction, restoration and follow-up monitoring of solar energy projects impacting such lands. Depending upon the size of the project, the project sponsor is to establish an escrow account with the Town of Rosendale to fund the Town employing an environmental monitor (EM) to oversee the construction, restoration and follow-up monitoring in agricultural fields. The EM is to be on site whenever construction or restoration work is occurring on Prime Agricultural Soils or Soils of Statewide Importance and is to be coordinated with the Ulster County Soil and Water Conservation District and/or the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being protected to the greatest extent possible.
- b Fencing and watering systems associated with rotational grazing systems and reduction in farmland viability due to the reduction in remaining productive farmland are to be assessed and mitigated to the greatest extent possible.
- c Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible.
- d Access roads are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries and in the nonagricultural portions of the site.
- e There shall be no cut and fill so as to reduce the risk of creating drainage problems by locating access roads, which cross agricultural fields, along ridge tops and by following field contours to the greatest extent possible.
- f The width of access roads across or along agricultural fields is to be no wider than 20 feet so as to minimize the loss of agricultural lands and comply with the State of New York fire access code.
- g All existing drainage and erosion control structures such as diversions, ditches, and tile lines or take appropriate measures to maintain the design and effectiveness of these structures. Repair any structure disturbed during construction to as close to original condition as possible, unless such structures are to be eliminated based upon a new site plan for the Major project.
- h The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

- i Culverts and waterbars are to be installed to maintain natural drainage patterns.
- j All topsoil areas to be used for vehicle and equipment traffic, parking, and equipment laydown and storage areas are to be stripped.
- k All vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical.
- l No vehicles or equipment are to be allowed outside the work area without prior approval from the landowner and the EM.
- m Where an open trench is required for cable installation, topsoil stripping from the entire work area may be necessary. As a result, additional workspace may be required as part of site plan approval.
- n All topsoil stripped from work areas (parking areas, electric cable trenches, along access roads) is to be stockpiled separate from other excavated materials (rock and/or subsoil).
- o A maximum of 50 feet of temporary workspace is to be provided along open-cut electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The site plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.
- p Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical.
- q Interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.
- r All buried electric cables in cropland, hayland and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.
- s The Ulster County Soil and Water Conservation District is to be consulted concerning the type of intercept drain lines whenever buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns.

- t In pasture areas, it is necessary to construct temporary or permanent fences around work areas to prevent livestock access, consistent with landowner agreements.
 - u Excess concrete used in the construction of the site is not to be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.
 - v All permits necessary for disposal under local, state and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.
2. Restoration Requirements. All agricultural areas temporarily disturbed by construction shall:
- a Be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results should be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement. Following decompaction, remove all rocks four inches in size or greater from the surface of the subsoil prior to replacement of topsoil. Replace the topsoil to original depth and reestablish original contours where possible. Remove all rocks four inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement shall be avoided after October 1 of each year.
 - b Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the approved site design by the Planning Board.
 - c Seed all restored agricultural areas with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.
 - d All damaged subsurface or surface drainage structures are to be repaired to preconstruction conditions, unless said structures are to be removed as part of the site plan approval. All surface or subsurface drainage problems resulting from construction of the solar energy project with the appropriate mitigation as determined by the EM, Soil and Water Conservation District and the landowner.
 - e Postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil should not be regraded, and subsoil should not be decompacted until

plasticity, as determined by the Atterberg field test, is adequately reduced. No project restoration activities are to occur in agricultural fields between the months of October and May unless favorable soil moisture conditions exist.

- f Following site restoration, remove all construction debris from the site.
- g Following site restoration, the project sponsor is to provide a monitoring and remediation period of no less than two years. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed subsurface drain lines, fences, etc.
- h Mitigate any topsoil deficiency and trench settling with imported topsoil that is consistent with the quality of topsoil on the affected site. All excess rocks and large stones are to be removed from the site.
- i All aboveground solar array structures are to be removed and all areas previously used for agricultural production are to be restored and accepted by the landowner, the Soil and Water Conservation District and the State Department of Agriculture and Markets.
- j All concrete piers, footers, or other supports are to be removed to a depth of 48 inches below the soil surface. Underground electric lines are to be abandoned in place. Access roads in agricultural areas are to be removed, unless otherwise specified by the landowner.

I. Safety.

1. All solar collector installations must be performed by a qualified solar installer. Documentation of being a qualified solar installer must be provided as part of the Building Permit application.
2. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer or by an appropriate electrical inspection person or agency as approved by the Town of Rosendale. Any connection to the public utility grid must be inspected by the appropriate public utility.
3. Solar energy systems shall be maintained in good working order. Maintenance shall include, but not be limited to, mowing, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the code enforcement officer and emergency personnel. The owner or operator shall be responsible for the cost of maintaining the solar farm and any access road(s), unless accepted as a public right of way. The schedule and frequency of mowing shall be at the discretion of the Planning Board in concert with the applicant in order to allow for use of pollinator and native species on a project site.

4. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code Standards.
5. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
6. If 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 the 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 the Town and other applicable laws and regulations. The Applicant shall demonstrate to the Planning Board how they will be monitored and shall address emergency access concerns as part of the facility Operations & Maintenance Plan.
7. All installations must adhere to the provisions of the New York State Uniform Fire Prevention and Building Code (the "State Code"), and any other applicable local, state and federal codes and/or standards.
8. Where this section differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State of Federal government, the more restrictive or protective of the Town and the public safety shall apply.

J. Fees.

1. Fees. An application shall be accompanied by an application fee as prescribed by resolution of the Town Board.
2. If professional review of the application is required by a designated private planning, engineering, legal or other consultants or, if other extraordinary expense to review documents or conduct special studies in connection with the proposed application is incurred, reasonable fees shall be paid for by the applicant, through an escrow account established by the applicant and the Town. An escrow agreement shall be signed by the applicant and a payment shall be made to the Town prior to the review of any application materials by the Town's consultant(s).
3. Applicant will be responsible for payment of all fees associated with the application, including, but not limited to, mailing and publication fees.

J. Invalidity

The invalidity of any clause, sentence, statement, paragraph or provision of this local law

shall not invalidate any other clause, sentence, statement, paragraph or part thereof.

K. Conflict

All local laws or ordinances or parts thereof in conflict with any parts of this local law are hereby superseded by this local law.

L. Validity

This local law shall take effect upon filing in the office of the New York State Department of State.