

## **173. Solar Energy Systems**

**A local law to add a new Chapter 173 of the Code of the Village of Caledonia, Livingston County, New York, which is to be known as "Solar Energy Systems"**

**Be it enacted by the Village Board of the Village of Caledonia as follows:**

### **§ 173-1. Applicability.**

- A. The standards found in this article are applicable to solar energy systems permitted, installed, or modified in the Village after the effective date of this chapter, excluding general maintenance and repair.
- B. Solar energy systems constructed or installed prior to the effective date of this chapter shall not be required to meet the requirements of this chapter.
- C. Modifications made to solar energy systems that alter the footprint area of an approved site plan of an existing solar energy system, increases the nameplate capacity by 5% or more, or that triggers NYS Uniform Code compliance, shall comply with the provisions of this chapter.

### **§ 173-2. General requirements.**

- A. A building permit shall be required for installation of all solar energy systems, and all applications for a building permit shall be submitted on the New York State form solar application, unless waived by the Village Code Enforcement Officer.
- B. All solar energy system installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards. Prior to operation, the electrical connections must be inspected by the Village Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Village. In addition, any connection to the public utility grid must be approved and inspected by the appropriate public utility.
- C. The operator shall notify the Village Code Enforcement Officer and the local fire department at least three business days prior to the initial energization of the solar energy system. Following such notification, the Village Code Enforcement Officer, or their designee, shall be permitted by the operator to be present for the initial energization of the solar energy system. Failure to comply with the requirements this provision shall constitute a violation of the building permit.
- D. Solar energy systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire departments.
- E. The solar energy system installer shall comply with all licensing and other requirements of the jurisdiction and the state as determined by the Code Enforcement Officer.
- F. When a battery energy storage system is included as part of the solar energy system it must be installed to meet the requirements of the NYS Building Code and the battery energy

storage system regulations of this chapter.

- G. Issuance of permits and approvals by the Planning Board and/or Village Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

**§ 173-3. Requirements for minor and on-farm solar energy systems.**

A. The Village of Caledonia has adopted the New York unified solar permit for minor solar Energy Systems. Permits are issued through the Code Enforcement Officer. To qualify for the New York unified solar permit for minor solar energy system, the following criteria must be met:

- (1) The solar energy system has a rated DC capacity of 25 KW or less.
- (2) It is mounted on a permitted roof structure, on a legal accessory structure, or ground mounted on the applicant's property. If on a legal accessory structure, a diagram showing the existing electrical connection to the structure is to be included with the application.
- (3) If the structure is a sloped roof, solar panels are mounted parallel to the roof surface.

B. Building-mounted and building-integrated minor solar energy systems are permitted in all zoning districts with a building permit and do not need a zoning variance or special use permit.

C. Ground-mounted minor solar energy system are permitted with a building permit as an accessory structure in all zoning districts and on-farm solar energy systems are permitted in R-R, R-1, R-2, R-3, and L-C Districts with a building permit as an accessory structure, subject to the following requirements:

- (1) The location of the solar energy system meets all applicable setback requirements of the zone in which they are located.
- (2) The height of the solar energy equipment shall not exceed 17 feet at its highest operating position.
- (3) The total surface area of all solar panels on the lot shall not exceed 4,000 square feet and shall not exceed 5% lot coverage.
- (4) The solar energy equipment is located in a side or rear yard.
- (5) Solar energy equipment shall be designed and located in a way so as to prevent reflective glare toward any inhabited buildings on adjacent properties, roads or from impacting aircraft flight path as provided in Federal Aviation Administration guidance.
- (6) Where site plan approval is required elsewhere in the regulations of the Village for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site

compatibility of proposed solar energy systems.

- (7) If a solar energy system is in disrepair or ceases to generate solar energy for more than nine consecutive months, the property owner shall remove the solar energy equipment within 90 days after the end of the nine-month period.
- (8) Portable solar array (e.g., flower) units with a total panel surface area of 100 square feet or greater must adhere to the same guidelines as ground mounted minor solar energy systems.

**§ 173-4. Requirements for major solar energy systems.**

Major solar energy systems are only permitted in R-R, I-1, I, and L-C Districts, and only following:

A. Approval of a site plan by the Village Planning Board that meets the Site Plan Standards set forth in § 173-5C below and in Article XII of the Village Zoning Code, and obtaining all other necessary approvals.

**§ 173-5. Site plan review standards.**

A. Permit application. In addition to the requirements for site development plan review of Article XI of the Village Zoning Code, the application for a solar energy system shall consist of 10 paper copies and an electronic (digital) filing that contains at least the following:

- (1) Summary. A narrative overview of the solar energy system, including its nameplate capacity.
- (2) Inventory. A tabulation describing the:
  - (a) Number and type of each proposed solar array, including their nameplate capacity.
  - (b) Dimensions and respective manufacturers.
  - (c) Additional structures and/or facilities.
  - (d) Documentation that the project will meet all the requirements of the nationally recognized electrical code.
- (3) Vicinity map. Identification of the property on which the proposed solar energy system will be located.
- (4) Site plan. A plan, stamped by a licensed professional engineer, showing the:
  - (a) Planned location of each solar array.
  - (b) All property lines within 1,000 feet of the property lines of the proposed site.
  - (c) Each array's setback distance from the closest solar energy system boundary.

- (d) Access road and turnout locations.
  - (e) Substation(s) and ancillary equipment, buildings, fencing, and structures.
  - (f) Electrical cabling from the solar energy system to the substation(s), and from the substation(s) to where the electricity will leave the site, and associated distribution and transmission lines.
  - (g) Conservation areas on or adjacent to the site of the solar energy system and sensitive natural, historic, or recreational areas as identified during the SEQRA review, including regulated wetlands; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic view sheds; and existing trails or corridors that connect the tract to neighboring areas.
  - (h) A screening and landscaping plan, prepared by a landscape architect, that shows proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites. The plan shall include the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures, and the plan for ongoing vegetation management. The screening and landscaping plan shall include locations, elevations, site lines, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Suggested plant species for screening are presented in Appendix A.
  - (i) The location of designated farmland on the site.
- (5) A completed SEQRA EAF (Environmental Assessment Form).
  - (6) Demonstration that the proposed solar energy system complies with the current construction and decommissioning and restoration guidelines established by the NYS Ag and Markets Solar Energy Project Guidance on designated farmland.
  - (7) Agricultural integration plan. For solar energy systems constructed on designated farmland, an agricultural integration plan integrating ongoing agricultural activities with the solar energy system or a demonstration that such plan is not practicable, in which case a plan for seeding a minimum of 75% of the total surface area of all solar panels on the parcel with native perennial vegetation designed to attract pollinators.
  - (8) Construction schedule. A proposed schedule for the completion of the project, including the proposed start date and proposed date of substantial completion, the expected date of connection to the power grid, and the expected date on which operation of the solar energy system shall commence.

- (9) Drainage and stormwater management. Erosion, sediment control, and stormwater management plan prepared to NYSDEC standards and the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, latest edition, if applicable, and that is acceptable to the Village Engineer and the Planning Board.
- (10) Emergency services. A fire protection and emergency response plan, created in consultation with the local fire department(s) having jurisdiction over the site of the solar energy system.
- (11) Leases/agreements/easements. A demonstration that the operator has obtained title to or a leasehold interest in the facility site, including ingress and egress access to a public street, or is under binding contract or option to obtain such title or leasehold interest, or can obtain such title or leasehold interest.
- (12) Lighting plan.
- (13) Noise. A study of the noise impacts of the construction and operation of the solar energy system demonstrating compliance with the approval standards for noise provided herein. Such noise study may demonstrate compliance by utilizing the methodology for solar energy systems and substations provided at 19 NYCRR 900-2.8, as amended.
- (14) Parking plan.
- (15) Signage plan.
- (16) Security plan. Design plans to verify that the solar energy system is:
  - (a) Located, fenced, or otherwise secured so as to prevent unauthorized access inside the planted buffer.
  - (b) Installed in such a manner that they are accessible only to persons authorized to operate or service them, and inaccessible to nonauthorized individuals.
- (17) A signed and executed New York state standardized interconnection contract from the utility company acknowledging that it will be connected to the utility grid in order to sell electricity to the public utility.
- (18) Operation and maintenance plan. An operation and maintenance plan describing continuing solar energy system maintenance and property upkeep, such as mowing and trimming. Such plan will provide for the inspection, and replacement by the following growing season if necessary, of landscaping and trees that are part of the approved landscaping plan to ensure compliance with the landscaping plan requirements. The plan shall also include:
  - (a) Storm and other severe weather event follow-up, and other actions that shall be taken to keep the solar energy system operating quietly, efficiently, and not polluting land, water, air.
  - (b) Plans to ensure proper operation of inverters, inverter filters and

associated electrical equipment, including checks for electrical pollution.

- (c) Preventive maintenance inspections at least every six months, and after any hail, wind, or other severe weather event likely to result in damage to the solar energy systems. A wind event is defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater. Each inspection shall consider solar panel condition, metal fatigue, fastener condition, leakage, and other potential failures that might impact public health and safety or the environment. Releases to soils from damaged solar panels shall be managed as hazardous material spills, including removal of all related soil contamination and confirmatory soil testing.
  - (d) Inspection reports provided to the Village of Caledonia Zoning or Code Enforcement Officer within 30 days of the inspection.
  - (e) Quarterly inspections of the integrity of security systems.
  - (f) Provision for an annual safety inspection of the solar energy system by the Village of Caledonia Building Inspector or designee.
- (19) A decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
- (a) Removal of all above-ground solar energy equipment, structures and restoration of areas previously used for agricultural production, according to recommendations by the owner, the Soil and Water Conservation District, and the Department of Agriculture and Markets; removal of concrete piers, footers, or other supports to a depth of 48 inches below the soil surface; and removal of access roads, unless otherwise specified by the owner.
  - (b) Restoration of the surface grade and soil after removal of equipment.
  - (c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
  - (d) A time frame for the execution of the decommissioning plan work.
  - (e) For solar energy systems constructed on designated farmland, the restoration of the designated farmland pursuant to the decommissioning guidelines of the New York State Agriculture and Markets Solar Energy Project Guidance.
  - (f) Anticipated life of the solar energy system.
  - (g) The disconnection of the solar energy system from the utility power grid.
    - (h) Stabilization or revegetation of the site as necessary to minimize erosion.
    - (i) Estimated decommissioning costs, including contingency costs of at least

50% (in current dollars), consistent with the then current NYSERDA guidance or based on a detailed engineering assessment, and certified by a New York state licensed professional engineering.

- (j) The verifiable means by which it can be determined that the solar energy system has not delivered electricity to the grid for any consecutive thirty-day period.
  - (k) The plan to dispose or recycle all waste generated from the decommissioning of the solar energy system pursuant to local, state, and federal solid waste regulations.
  - (l) Method for ensuring that funds will be available for decommissioning and restoration as set forth in the decommissioning surety requirements of § 106-10 of this chapter.
- (20) Ancillary materials. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Village of Caledonia to ensure compliance with this chapter and SEQRA.
  - (21) Changes. Throughout the permit application review process, the operator shall promptly notify the Village Planning Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted.
  - (22) Certification as to the existing soil classifications for the soil at the proposed development site as provided by the current United State Department of Agriculture Natural Resource Conservation Services Web Soil Survey, or as provided by such other state or local governmental agency maintaining official records of local soil classifications.

B. Solar energy system application review escrow account, application fee, and reimbursement for Village oversight expenses.

- (1) The operator shall pay to the Village of Caledonia a nonrefundable application fee. The nonrefundable permit application fee shall be set annually by the Village Board.
- (2) The Village Planning Board shall require an escrow account agreement for the costs to the Village to obtain engineering, environmental impact, legal, or other professional services to aid it in the review of any submitted solar energy system application, including the review required by SEQRA. These costs are reimbursable only from the escrow account, not the application fee.
- (3) Escrow account set up; initial deposit; application determination.
  - (a) The escrow account will be set up by the Village Clerk at the time of the solar energy system permit application. This escrow account will be a solely in the name of the Village of Caledonia and be managed by the Village of Caledonia (or designee appointed by the Village).
  - (b) The operator will make an initial escrow deposit to the Village Clerk in

an amount determined by the Code Enforcement Officer in consultation with the Caledonia Village Planning Board, Village Engineer, and Village Attorney. A solar energy system permit application will not be processed until the escrow deposit has been made. A solar energy system permit application determination will not be made until all costs incurred to date have been reimbursed by the operator.

- (c) Any escrow account interest shall stay with the account and be considered new principal.
  - (4) If the solar energy system application is denied, all remaining escrow account funds will be returned to the operator, less related expenses incurred by the Village of Caledonia. The money will be returned, along with a statement as to these costs, within 30 days of the application being formally denied, or receipt of a letter of withdrawal. Permit fees are nonrefundable.
  - (5) The operator shall reimburse the Village of Caledonia for all oversight expenses (the "oversight expenses") incurred by the Village relating to the solar energy system, from application through decommissioning. These oversight expenses include (but are not limited to) amounts required for building permits, licensing, relicensing, decommissioning, inspections, administration, engineering, required expert health and wildlife evaluations, handling complaints, and legal costs. "Legal costs" include reasonable attorney fees for the Village of Caledonia if the Village of Caledonia in the event that an action is commenced by the Village to enforce provisions of this chapter for the solar energy system.
  - (6) An escrow account will be funded for the reimbursement of these oversight expenses for the life of the solar energy system by the operator. The operator will replenish any escrow funds used by the Village of Caledonia within 30 calendar days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the escrow account at a minimum balance, equal to one year of anticipated oversight expenses as estimated by the Village of Caledonia Planning Board, Village Engineer, and Village Attorney, within 30 days of being given notice shall be cause for revocation of the solar energy system permit(s) issued by the Village.
  - (7) Once the operator believes that they have satisfactorily complied with the decommissioning conditions specified in this chapter, they will send the Village of Caledonia written notification. The Village of Caledonia then has 90 days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material noncompliance, the Village of Caledonia will so notify the operator. Upon confirmation by the Village that the requirements of the decommissioning plan have been met, the Village will return all escrow account funds to the operator, less related expenses incurred by the Village of Caledonia, along with an explanatory statement.
- C. Site plan approval design standards. In addition to site plan requirements under Article XII of the Village Zoning Law, prior to issuance of final site plan approval from the Planning Board for a solar energy system, the following requirements shall

be met:

(1) Setbacks.

- (a) Except as otherwise approved by the Planning Board pursuant to this Subsection C(1), all solar energy systems shall comply with the following setback requirements. Such minimum setbacks for a solar energy system shall be measured from the fencing surrounding the solar energy system that is nearest to the relevant property line, building or highway rights-of-way. Landscape buffers for screening may be placed in the setback area.

[1] A minimum side and rear setback of fifty feet from a nonparticipating residence or commercial building as measured from the side and rear walls of the building.

[2] Two hundred fifty feet from the property lines of a nonparticipating property containing a nonparticipating residence.

[3] One hundred fifty feet from the property lines of a nonparticipating property that does not contain a nonparticipating residence.

[4] Eighty feet from the right-of-way line of a Village road.

[5] Eighty feet from the right-of-way line of a county road.

[6] Eighty feet from the right-of-way line of a state road or highway.

The Planning Board may approve a lesser setback from the requirements of Subsection C(1)(a)[1], [2], [3], and [4] if the operator demonstrates, in consideration of such factors as the subject property's natural characteristics and proposed mitigation including, but not limited to, topography, existing and proposed vegetative buffers, the proximity to the nonparticipating residence, seasonality of the Village road, and the presence of participating properties on adjoining parcels separated by a Village road, that:

[7] There will be no visual impact from the Village road, or the adjacent nonparticipating residence from the solar energy system.

[8] There will be no adverse impact on the Village road or on the adjacent nonparticipating residence from the construction, maintenance, and operation of the solar energy system.

- (b) Setback relief beyond that which may be granted pursuant to Subsection C(1)(b) requires an area variance from the Zoning Board of Appeals.

- (2) The height of the solar-related equipment shall not exceed 17 feet. Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning-protection device).
- (3) The screening and landscaping plan should demonstrate that the landscaped buffer will provide year-round screening so that to the maximum extent

practicable the solar energy equipment is not visible from roadways and adjacent nonparticipating properties. The vegetation plantings shall be planted within 25 feet of the fencing surrounding the perimeter of the solar energy system. In lieu of plantings, berms or existing vegetation may be used to satisfy all or a portion of the required landscaped screening. If the buffer utilizes vegetative planting, the plantings shall consist of noninvasive evergreen trees or bushes, the deer and weather resistant plant species presented in Appendix A, or other noninvasive species as otherwise recommended by the landscape architect, planted no more than eight feet apart and at least four feet tall at time of planting. The buffer shall obtain a height of at least 10 feet within five growing seasons. Invasive species that shall not be planted as part of the landscape buffer, include, but are not limited to, winter creeper, garden loosestrife, Chinese silver grass, yellow flag iris, bamboo, Norway maple, Japanese barberry, sweet autumn clematis, burning bush and siebold's viburnum, or other invasive species as identified by the NYSDEC or the NY Invasive Species Clearinghouse at Cornell University. The vegetation management plan shall ensure that any landscaping and trees that die off will be replaced by the following growing season with the approved plantings from the screening and landscape plan.

- (4) Power collection. All on-site utility, distribution, and transmission lines are, to the extent feasible, to be placed underground.
- (5) Agricultural resources. Any solar energy systems located on parcels containing designated farmland shall be located on no more than 50% of the designated farmland present on the parcel. If contiguous participating properties containing solar energy systems are present, the collective parcels may be treated as one parcel for the purposes of the designated farmland location requirement of this subsection.
- (6) All solar energy systems shall be required to comply with an approved agricultural integration plan or otherwise seed a minimum of 75% of the total surface area of all solar panels on the parcel with native perennial vegetation designed to attract pollinators.
- (7) To the maximum extent practicable, solar energy systems located on designated farmland shall be constructed in accordance with the construction requirements of the New York State Agriculture and Markets Solar Energy Project Guidance.
- (8) Architectural compatibility. All appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.
- (9) Fencing. All solar energy systems shall be enclosed by a minimum of seven-foot fence, or of a height as otherwise required by the National Electric Code, consisting of a high green or black-powder-coated fence with top rail system or of American Wire woven four inches by six inches fencing with a self-locking gate to prevent unauthorized access. Warning signs with the operator's and owner's contact information shall be placed on the entrance and perimeter of the property and of the

solar energy system at locations acceptable to the Planning Board.

- (10) Glare. All solar energy production systems are designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties, roads or from impacting aircraft flight path as provided in Federal Aviation Administration guidance.
  - (11) Lighting of solar energy systems shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
  - (12) Parking. There shall be one parking space or the number of parking spaces needed to accommodate the maximum number of anticipated maintenance personnel to be present at the solar energy system at one time, whichever is greater, to be used in connection with the maintenance of the solar energy system. Such parking spaces shall not be used for the permanent storage of vehicles.
  - (13) Noise levels from the solar energy system will comply with the noise limits for solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at 19 NYCRR 900-6.5(b) by implementing the design required by 19 NYCRR 900-2.8 except that the standards applicable to existing nonparticipating residences shall also be met for existing participating residences.
  - (14) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. The solar energy system will not contain any signs or other advertising. This does not include any identification plaques that may be required by the electric utility, fire department or emergency response or other governmental agency.
  - (15) Surface area. The total surface area of all solar energy equipment shall not exceed 80% of the total parcel area.
  - (16) A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis.
- D. The solar energy system approval shall include appropriate conditions to mitigate adverse impacts of the solar energy system, including, but not limited to:
- (1) Compliance with the approved landscaping plan, vegetation management plan, and operations and maintenance plan.
  - (2) Prior to the issuance of a building permit, the operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
  - (3) Initial and annual site specific training for the Code Enforcement Officer, fire

department, emergency response, Livingston County emergency management system, and police department, with expenses for such training covered by the operator.

- (4) The decommissioning plan and agreement shall run to the benefit of the Village of Caledonia and be executed by the operator as well as the owners and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the solar energy system is to be constructed.
- (5) Solar energy system construction-related damage. The operator of any permitted solar energy system shall repair or replace all real or personal property, public or private, damaged as a result of the solar energy system construction.
- (6) Major solar energy systems shall be considered major projects and shall be required to obtain a road use permit and enter into a road maintenance agreement acceptable to the Village Board. Prior to the commencement of construction of the solar energy system, an existing condition survey of the approved hauling routes for construction of the solar energy system. 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 ("NYSDOT"), Livingston County Highway, and Town of Caledonia Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) at the operator's expense, prior to the final inspection. In addition, the operator shall pay for all costs related to NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.
- (7) Site access shall be maintained to a level acceptable to the local fire department and emergency medical services. All means of shutting down the solar energy system shall be clearly marked.
- (8) The operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.
- (9) The operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the solar energy system until the completion of the decommissioning plan.
- (10) The operator is responsible to provide the Village of Caledonia with a current written list of all chemicals used for maintenance and operation of the solar energy system (e.g., pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. The operator shall be liable for a civil penalty of not more than \$500 for each day or part thereof during which violation of the requirements of this subsection continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Village of Caledonia.
- (11) The operator shall secure and maintain public liability insurance from the commencement of construction of the solar energy system until the completion of the

decommissioning plan, as follows:

- (a) Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence (\$2,000,000 aggregate), which shall specifically include the Village of Caledonia and its officers, employees, board members, attorneys, agents and consultants as additional named insured.
- (b) Umbrella coverage: \$5,000,000.
- (c) 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."
- (d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Village of Caledonia with at least 30 days' prior written notice in advance of cancellation.
- (e) Renewal or replacement policies shall be delivered to the Village of Caledonia at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- (f) No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Village of Caledonia a copy of each of the policies or certificates representing the insurance in the required amounts.
- (g) A certificate of insurance that states that it is for informational purposes only and does not confer sufficient rights upon the Village of Caledonia shall not be deemed to comply with this chapter.

**§ 173-6. Surety for decommissioning.**

- A. The operator shall place with the Village of Caledonia an acceptable letter of credit, performance bond, or other form of security reasonably acceptable to the Village attorney and engineer, that is sufficient to cover the cost of implementing the decommissioning plan. The amount of the letter of credit or other security shall be in the amount of 150% of the estimated cost of implementing the approved decommissioning plan. The estimated cost of implementing the decommissioning plan will be certified by a licensed professional engineer and reviewed by the Village Engineer. The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan. The financial security shall be updated every fifth-year thereafter specifying changes to the estimated cost of implementing the decommissioning plan.
- B. The Village of Caledonia shall use this surety to assure the faithful performance of the decommissioning plan. The full amount of the bond or security shall remain in full force and effect until the decommissioning plan has been fully implemented.
- C. The surety for implementing the decommissioning plan shall not be released until the

Village Engineer has confirmed that the approved decommissioning plan has been fully implemented and is satisfied that any road damage identified during and after decommissioning that is caused by the operator and/or one or more of its contractors or subcontractors has been repaired or reconstructed to the satisfaction of the NYSDOT, Livingston County Highway and/or Town of Caledonia Highway Department at the operator's expense. In addition, the operator shall pay for all costs related to work of the NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) inspection prior to receipt of the release of the surety.

**§ 173-7. Permit time frame; abandonment.**

- A. Permit time frame. The special use permit and site plan approval for a solar energy system shall be valid for a period of 24 months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 24 months after approval, the Village may extend the time to complete construction for up to two consecutive extensions each of 12 months. If the owner and/or operator fails to perform substantial construction after 48 months, the approvals shall expire. If the owner or operator fails to perform, the Village may notify the owner or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within 150 days of notification by the Village.
- B. Upon notification by the operator, made to the Code Enforcement Officer by certified mail, of the proposed date of discontinued operation of the solar energy system, or by cessation of activity of a constructed facility for a period of one year, the Village may notify the operator that the operator must implement the decommissioning plan within 150 days.
- C. If the owner or operator of the facility fails to fully implement the decommissioning plan within the required time frame, the Village may, at its discretion, implement the decommissioning plan and may recover all of the expenses incurred for such activities from the defaulted owner or operator, or, at the Village's sole discretion, from any financial security made with the Village as set forth herein. The operator and the owner of the real property on which the solar energy system is located shall be jointly and separately liable for all costs and expenses of the Village incurred during and relating to the removal of the solar energy system pursuant to the decommissioning plan. Notwithstanding the foregoing, the Village shall first attempt to secure payment for such costs and expenses from the security made with the Village as set forth herein. In the event the costs incurred by the Village to implement the decommissioning plan are not obtained from the security, the Village shall next attempt to secure payment for such costs and expenses from the operator; however, in the event the Village is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Village reserves all rights to pursue payment for such costs and expenses from the owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes. Legal counsel of the Village shall institute appropriate

action for the recovery of such cost, plus attorney's fees, including, but not limited to filing of municipal claims pursuant to the cost of such work, 9% interest per annum, plus a penalty of 9% of the amount due plus attorney's fees and costs incurred by the Village for the removal work and filing the claim.

- D. With the consent of the owner, the Code Enforcement Officer along with the Village Engineer and the Planning Board may allow the operator to implement the decommissioning plan while allowing the landscaping to remain.

**§ 173-8. Nonconformance.**

- A. If a building-mounted solar energy system is to be installed on any building or structure that is nonconforming because its height violates the height restrictions of the zoning district in which it is located, the building-mounted system shall be permitted, so long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this law.
- B. If a building-mounted solar energy system is to be installed on a building or structure on a nonconforming property that does not meet the minimum setbacks required and/or exceeds the lot coverage limits for the zoning district in which it is located, a building-mounted system shall be permitted, so long as there is no expansion of any setback or lot coverage nonconformity and so long as it complies with the other provisions of this law.

**§ 173-9. Project ownership; transfer.**

If the operator changes, the special use permit and/or site plan approval shall remain in effect, provided that the successor operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. The new operator shall notify the Code Enforcement Officer of such change within 30 days of the change. The new operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the solar energy system shall become void if a new operator fails to provide written notification to the Code Enforcement Officer in the required time frame. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this chapter.

**§ 173-10. PILOT agreement.**

- A. Where the solar energy system is not designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electricity consumed on the property by more than 110%, the operator shall be required to enter into an agreement for a payment in lieu of taxes (PILOT) with the Village pursuant to Real Property Tax Law § 487. This PILOT agreement shall be drafted by the Village Attorney in consultation with the Village Mayor. A PILOT agreement executed with the Livingston County IDA, acceptable to the Village, in its sole discretion, for the solar energy system may serve to meet the requirements of this subsection.
- 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.

- C. The PILOT shall run to the benefit of the Village of Caledonia and be executed by the operator and the owners of the real property upon which the solar energy system is to be located. .
- D. Community host agreement. Prior to issuance of a building permit for the solar energy system, the operator for which a solar energy system with a nameplate capacity of over 1MW is to be developed shall enter into a community host agreement with the Village for payment by the operator to the Village of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential adverse impacts that may be associated with a solar energy system.

**§ 173-11. Superseding Intent and Effect.**

This Local Law shall supersede any inconsistent provisions of the Town Code, or all other local ordinances, laws, or resolutions of the Town of Mount Morris.

**§ 173-12. Severability.**

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.

**§ 173-13. Repealer.**

All ordinances, local law and parts thereof inconsistent with this local law are hereby repealed.

**§ 173-14. Effective Date.**

This local law shall take effect immediately upon its adoption and filing with the Secretary of State.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2023 of the Village of Caledonia was duly passed by the Village Board of Trustees on May 2, 2023, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Ann M. Grattan

Ann M. Grattan, Village Clerk

Village of Caledonia

Date: May 2, 2023

Village of Caledonia  
3095 Main Street  
Caledonia, NY 14423

Date: 05/16/2023  
Balance: \$267.08  
Total Paid: \$267.08  
Balance Due: \$0.00

Paid by: CASH \$267.08

Account #: 01-1287.00  
Cruz, Samuel  
3203 State Street  
Caledonia, NY 14423