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RESOLUTION NO. 107 -2016

WHEREAS, the Town Board of the Town of Duanesburg determined that the Town of Duanesburg Zoning Ordinance did not directly address the construction of solar power facilities in the Town and directed that a draft local law, entitled "Solar Energy Facilities Law", be prepared for the Town Board's consideration;

WHEREAS, the local law was developed with the assistance of the Town of Duanesburg Codes Enforcement Officer and was distributed to and reviewed by the Town Board members;

WHEREAS, the local law was referred to the Town Planning Board, the Town Zoning Board of Appeals and to the County Planning Board as required by the Town of Duanesburg Zoning Ordinance and the NYS General Municipal Law;

WHEREAS, the comments, if any, of the Town Planning and Zoning Boards were considered by the Town Board and the County Planning Board issued a letter recommending approval of the local law;

WHEREAS, a duly noticed public hearing was held on July 14, 2016 (attached is the newspaper notice of the public hearing) and any public comments were carefully considered by the Town Board members;

WHEREAS, the Town Board is the only involved agency for this type one action—the adoption of a local law regulating solar energy facilities;

NOW THEREFORE BE IT RESOLVED that the Town Board declares itself lead agency pursuant to the NYS Environmental Quality Review Act (SEQRA) for the required environmental review of this action;

BE IT RESOLVED that the Town Board has carefully considered the Full Environmental Assessment Form (FEAF), Parts 1, 2 and 3 prepared to evaluate the proposed local law and hereby adopts the Full EAF attached hereto;

BE IT RESOLVED that the Town Board hereby adopts the negative declaration attached to this resolution and incorporated herein finding that the adoption of the proposed local law will not have the potential for at least one significant adverse environmental impact and that no Environmental Impact Statement will be prepared;

BE IT RESOLVED that the Town Board hereby adopts Local Law No. 1 of the Town of Duanesburg entitled the "Solar energy Facilities Law" and directs that the SEQRA documentation and the Local Law be filed as required by SEQRA and the NYS Municipal Home Rule Law.

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Duanesburg

Local Law No. 1 **of the year 20**16

A local law The Solar Energy Facilities Law
(Insert Title)

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Duanesburg **as follows:**

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF DUANESBURG
LOCAL LAW No. _ OF 2016

BE IT ENACTED by the Town Board of the Town of Duanesburg, in the County of Schenectady, as follows:

SECTION ONE. TITLE.

This local law shall be known as the "Solar Energy Facilities Law."

SECTION TWO. PURPOSE.

The purpose of this local law shall be to adopt a local law regarding the review of solar energy facilities and to amend the Town of Duanesburg Zoning Ordinance by providing for the siting, development, and decommissioning of solar energy systems subject to reasonable conditions to reduce potential impacts to adjoining properties while promoting development of renewable energy resources.

SECTION THREE. AUTHORITY.

This local law is adopted pursuant to sections 10 and 22 of the Municipal Home Rule Law.

SECTION FOUR. ADOPTING THE SOLAR ENERGY FACILITIES LAW AND AMENDING THE TOWN OF DUANESBURG ZONING ORDINANCE.

The Town of Duanesburg Code and Zoning Ordinance are hereby amended as follows:

1. Definitions.

   a. Solar Energy System- A solar photovoltaic collection device and equipment that uses solar radiation to generate energy.

   b. Solar energy system, accessory –a roof or ground mounted solar energy system designed to supply energy for a principal use on a residential or commercial parcel.

   c. Solar energy system, major –a ground or roof mounted solar energy system that produces power to off-site customers.

2. Solar Energy System, Accessory. An accessory solar energy system shall comply with the following requirements:

   a. A ground-mounted accessory solar energy system shall comply with the setback and height requirements for a major accessory structure.

b. A roof-mounted accessory solar energy system shall be mounted as flush as possible to the roof. To achieve proper solar orientation, panels may exceed the roofline by five feet.

c. The requirements set forth below in (3)(a) – (g)

3. Solar Energy System, Major. A major solar energy system shall comply with the following requirements:

a. 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 six foot fence.

b. Signs. Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger.

c. Buffer/screening. A minimum twenty-five-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.

d. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. Exterior surfaces of roof-mounted collectors and related equipment shall have a non-reflective finish and shall be color-coordinated to harmonize with roof materials and other dominant colors of the structure.

e. 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.

f. Existing on site vegetation shall be preserved to the maximum extent practicable. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

g. Height. Ground-mounted arrays shall not exceed 20 feet in height when oriented at maximum tilt.

h. Lot coverage. A major solar energy system shall not exceed 60 percent lot coverage. Lot coverage shall be defined as the area measured from the outer

edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

i. Site disturbance, including but not limited to, grading, soil removal, excavation, soil compaction, and tree removal in connection with installation of solar energy facilities, including ground-mounted systems, shall be minimized to the extent practicable. Forested sites shall not be deforested to construct solar energy facilities.

j. Noise. Substations and inverters shall be set back a minimum distance to achieve no discernable difference from existing noise levels at the property line.

k. Setbacks. Any structures and equipment shall comply with all minimum setbacks for principal structures established in the Town of Duanesburg Zoning Ordinance except that any structures or equipment shall be located at least 100 feet from any lot containing a single or multi-family residence. Additional setbacks may be required by the Zoning Board or Planning Board to adequately buffer adjoining residential and public property.

l. Access and parking. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.

m. Abandonment. A major solar energy system that has not generated electricity for a period of 12 consecutive months shall be deemed to be abandoned and shall be decommissioned within six months. A decommissioning plan shall be submitted as part of the site plan or special use permit application and shall include, but not be limited to, the following:

(1) A schedule and methods for the removal of the solar energy system from the lot; and
(2) A plan for restoring the property to its preinstalled condition, including grading and vegetative stabilization to eliminate any negative impacts to surrounding properties.

4. Approvals Required: a. Prior to installing a solar energy system accessory, a building permit shall be obtained from the Uniform Code Enforcement Officer of the Town of Duanesburg pursuant to the requirements set forth in Section 14.3.

b. Prior to installing a Solar Energy System Major, the applicant shall obtain site plan approval and a special use permit from the Town of Duanesburg Planning Board. A Solar Energy System Major shall only be permitted by special use permit and site plan approval in the R-2, C-1, and C-2 Zoning Districts. All of the substantive and procedural requirements for site plan review and special use permit review as set forth in the Town of Duanesburg Zoning Ordinance set forth in Section 14.6.

4. The Zoning Ordinance shall be amended to add a new section 13.8 which will provide "Solar Energy Facilities. See Solar Energy Facilities Law".

SECTION FIVE. SEQRA DETERMINATION.

The Town Board hereby determines that the adoption of this local law is a type one action that will not have a significant effect on the environment and therefore, no other determination or procedure under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION SIX. EFFECTIVE DATE.

This local law shall become effective upon its filing in the Office of the Secretary of State.

SECTION SEVEN. SEVERABILITY.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 16 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town of Duanesburg Town Board on _____ 20 16, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*

on _____ 20[ ][ ], in accordance w lth the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local
(Elective Chief Executive Officer)*

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
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 _____ above.

_____
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: July 14, 2016