

**The Village of Croton-on-Hudson Conservation Advisory Council's Position Statement on
Potential Updates to Solar Energy Laws, including NYSERDA's Model Solar Energy and Battery
Energy Storage Laws**

10/25/2023

Approved by CCAC 7-1 vote on 11/1/23

OVERVIEW

At the direction of the Board of Trustees, the Conservation Advisory Council has reviewed the model Solar Energy and Battery Energy laws, as well as the Village's existing law, and has prepared this statement.

SUMMARY STATEMENT

The charge of the Conservation Advisory Council is the preservation of the Village's existing environmental assets. All of our existing environmental assets are threatened by climate change, and therefore we strongly support the development of solar energy systems. At the same time we urge the Village in its solar code to emphasize conservation over mitigation measures, and to promote a balance between the urgent need to roll out renewables and the equally urgent need to preserve existing natural ecosystems, biodiversity, and natural resources. Solar energy is critical to our future, and given the large amount of area in our community already given to rooftops, pavement and grass it should be possible to develop solar and other green energy in places and ways that do as little damage as possible to our already diminished natural environment.

SPECIFICS:

In support and explanation of the above, following are excerpts from the Village and Model Solar Energy and Battery Energy codes that form the basis of our statement. Please note that these excerpts are not intended to be exhaustive, just illustrative of our key points of recommendation.

Comments on existing Village Law

G.2.b. Plans showing the layout of the solar energy system signed by a professional engineer or registered architect.

We recommend that landscape design should be included in all plans submitted to the Village.

G.2.h.4. A tree restoration plan, restoring the decommissioned area to a condition similar to the condition that existed prior to the installation. Recognizing that mature plantings cannot be easily

relocated, the Planning Board may exercise discretion in determining the number, caliper, type, and location of plantings in reviewing any such plan, but all plantings shall be native noninvasive species.

7.b.3 from model code

3 Environmental Resources

- a. Tree-cutting. Removal of existing trees larger than [6] inches in diameter should be minimized to the extent possible.
- b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
- c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

G.3.e. *Lighting. Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.*

Lighting laws should include wording regarding the use of Amber / Red light that will conform to Dark Sky recommendations and minimize impacts on nocturnal animals.

G.3.f. *Tree cutting. Tree removal shall be subject to the permit requirements of Chapter 208.*

The Village should consult with the CCAC to revisit the current tree cutting ordinance.

General Comments and Recommendations regarding existing Village Code

Cover in new tree ordinance Regarding Tree Replacement and Habitat

Restoration: the CCAC believes that real trees should be used as replacement - 2 new trees to replace every 3 trees removed. These should not be seedlings or saplings, but fully established trees. The new trees should be replaced in the vicinity as the existing trees as to not disturb the natural habitat.

Furthermore, native plants, pollinators, and flora consistent with the sustenance of local fauna should be prioritized.

Regarding Decommissioning Plans: All decommissioning plans should include plans to reforest all disturbed areas and should not be considered complete until all replanted flora and re-integration of associated fauna are complete. Re-planting is not sufficient – the threshold should be re-establishment within 2 years.

Regarding Steep Slopes: Any future updates to Village Code should include and/or strengthen existing protections for steep slopes.

Regarding Dark Skies: All lighting plans should prioritize protection of nocturnal wildlife and adhere to best practices as detailed in Dark Sky recommendations to combat light pollution.

COMMENTS ON MODEL SOLAR ENERGY LAW:

2.4. Statement of Purpose: To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and

Instead of “to mitigate,” which presupposes destruction of protected resources, language should emphasize conservation, for example: “To harness the benefits of Solar Energy Systems while conserving environmental resources with the current best practices of mitigation measures when impacts cannot otherwise be practically avoided.”

8.13.d. The provision of a decommissioning security which shall adhere to the following requirements...

As noted elsewhere, no decommissioning plan nor mitigation plan should be considered complete until the restored environment has reached a level of maturity that is reasonably predictive of long-term survival. Re-establishment is the key criteria, not replanting and should be completed within 3 years

COMMENTS ON MODEL BATTERY ENERGY LAW:

Please note that all recommendations indicated to Solar Energy laws above similarly apply to all aspects of the Model Battery Energy Law.

One point, however, deserves special emphasis:

2.C. Statement of Purpose: To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources

As noted above, instead of “to mitigate,” which presupposes destruction of protected resources, language should emphasize conservation, for example: “To harness the benefits of Battery Energy Systems while conserving environmental resources with the current best practices of mitigation measures when impacts cannot otherwise be practically avoided.”