

Mohawk Solar

Case No. 17-F-0182

1001.31 Exhibit 31

Local Laws and Ordinances

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EXHIBIT 31 LOCAL LAWS AND ORDINANCES

The proposed 90.5 MW Facility will be located in Montgomery County, New York, in the Towns of Minden and Canajoharie. Throughout the pre-application process, the Applicant conferred with these municipalities on a range of issues, including identifying relevant local laws and ordinances that could impact the Facility. As a result, at the time it submitted its Preliminary Scoping Statement (PSS), the Applicant identified local laws, ordinances, and other regulations, standards, and/or requirements applicable to the construction or operation of the Facility. Aside from the lists included below, the Towns have not identified any additional local laws or ordinances they believe are applicable to the construction or operation of the Facility and have entered into stipulations to this effect.

Pursuant to a request by the Towns, the Applicant engaged a licensed engineer, POWER Engineers, Inc. (POWER) to evaluate the occurrence and duration of any potential glare from the Facility that would be visible to sensitive receptors, including adjacent residences and major transportation routes. A copy of this technical evaluation is included with this Application as Appendix 31-A. As part of its analysis, POWER evaluated the occurrence of glare at residences within 1,500 feet of the Project that had direct line of sight to the Facility and all major roadways within one-mile of the Facility components. In addition, the analysis assumed worst-case scenarios of a fully exposed sun throughout the year, meaning that cloud cover, minor terrain undulations, vegetation, and other visual obstructions that may block potential glare were not accounted for in the analysis. As demonstrated in the report, the potential occurrence of glare at the Facility was limited to one residence at intermittent times throughout the year around sunrise (when the viewers would otherwise have their gaze diverted to avoid looking directly into the setting or rising sun) with durations of less than ten minutes. Therefore, the potential for glare is minimal, to non-existent. However, despite the negligible impacts, as a means of further minimizing the potential for glare, the Applicant has eliminated several panels such that no further potential for glare exists. See Appendix 31-A for further information.

(a) List of Applicable Local Ordinances and Laws of a Procedural Nature

Below is a list of applicable local laws and ordinances of a procedural nature that may be applicable to the Facility. These local procedural requirements are supplanted by Article 10 unless the Siting Board expressly authorizes the exercise of the procedural requirements by the local municipality or agency. Copies of these local laws are included as Appendix 31-B.

Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System):

- § C 1 Site Plan

- § C 3 (b) Visual
- § C 4 Lighting
- § C 5 Utilities
- § C 8 Ownership
- § C 9 Proof of Insurance
- § C 12 Inspections
- § D Performance Bond and Other Security
- § E Building Permit

Town of Canajoharie Local Law No. 1 of 2004 providing for Enforcement of the State Uniform Fire Prevention and Building Code:

- § 5 Building Permit
- § 6 Fees
- § 7 Certificate of Occupancy
- § 8 Inspection

Town of Canajoharie Local Law No. 2 of 2001 providing for the Subdivision Law of the Town of Canajoharie

Town of Canajoharie Local Law No. 1 of 1977 providing for Written Notification of Defects and Obstructions on Town Highways, Bridges, Culverts and Sidewalks

Town of Canajoharie Ordinances:

- Subdivision Law, Article III, Procedure
- Subdivision Law, Article VIII, Fees and Reimbursable Costs
- Zoning, Article VII, Special Use Permits
- Zoning, Article IX, Site Plan Review
- Zoning, Article X, Permits and Certificates
- Zoning, Article X, Inspections
- Zoning, Article XI, B 2, Appeal for Variance
- Zoning, Article XI, B 3, Procedure
- Zoning, Article XI, B 4, Referral to Montgomery County Planning Department

Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24:

- § D 2 Applications, Permits and Approvals
- § E 1 Decommissioning

Town of Minden Local Law No. 1 of 2015 providing for Road Preservation – Chapter 75, Article II:

- § 75-11 Activities Requiring Road Preservation Vehicle Permit
- § 75-14 Application; Permit Requirements; Approval Process
- § 75-16 Highway Permit Bond/Maintenance Bond; Escrow Account
- § 75-19 Fees

Town of Minden Local Law No. 2 of 2000 providing for Fire Prevention and Building Construction – Chapter 50:

- § 50-10 Building Permits
- § 50-11 Certificate of Occupancy
- § 50-14 Inspections
- § 50-14 Fees

Town of Minden Ordinances:

- Chapter 77 (Subdivision of Land), Article I, General Provisions
 - § 77-4 Fees
- Chapter 77 (Subdivision of Land), Article III, Review and Approval Procedure
- Chapter 77 (Subdivision of Land), Article IV, Documents to be Submitted
- Chapter 77 (Financial Guaranties for Public Improvements), Article IV
- Chapter 90 (Zoning), Article VII, Site Plan Approval and Special Permits
- Chapter 90 (Zoning), Article XI, Administration –
 - § 90-58 Building Permit
 - § 90-59 Certificate of Occupancy
- Chapter 90 (Zoning), Article XII, Zoning Board of Appeals –
 - § 90-62 Powers and Duties

(b) Local Procedural Requirements Requiring Board Authorization

In the executed Stipulations, Applicant agreed to request from the Siting Board that the Towns of Canajoharie and Minden be expressly authorized to apply existing local requirements related to work performed within the Towns' right-of-way, or on the Towns' roads, during construction and/or operation of the Facility. Therefore, to the extent that the Towns of Canajoharie and Minden require any sort of permit or approval to perform work within the Towns' right-of-way, or on the Towns' roads, the Applicant requests that the Board grant the Towns authority to issue such permits or approvals. The Applicant will work with the Towns to follow their procedural and substantive requirements for the permitting of highway work permits as these issues are primarily of local concern and ministerial in nature.

Below is a list of local laws and ordinances that have been identified as provisions that would fall under the category of authorized local laws pertaining to work in/on, or use of Town roadways:

Town of Minden Local Law No. 1 of 2015 providing for Road Preservation – Chapter 75, Article II.

In addition, the Applicant is requesting that the Siting Board authorize the Town of Canajoharie's Zoning Board of Appeals to review and approve the Applicant's variance request from certain requirements contained in the Town's solar ordinance. Specifically, to permit the Facility to locate select Facility components (fencing, access roads, underground electrical collection) within the minimum boundary line setback requirement, to include array panels and select residential dirt/gravel driveways designated as Town roads for Facility lease and easement holders.

Further, the Applicant is requesting that the Siting Board authorize the Town of Minden's Zoning Board of Appeals to review and approve the Applicant's variance request from requirements contained in the Town's solar ordinance. Specifically, to permit the Facility to exceed the parcel acreage limitations for a utility-scale solar energy system, to locate select Facility components (fencing, access roads, underground electrical collection) within the minimum boundary line setback, to include array panels and select residential dirt/gravel driveways designated as Town roads for lease and easement holders, and provide visual screening capable of reasonably minimizing visual impacts as opposed to "fully screening" the Facility as specified.

Below is a list of local laws and ordinances that have been identified as provisions pertaining to the Zoning Board of Appeals' ability to review and approve a variance request:

Town of Canajoharie Code, Article XI. B, Powers and Duties

Town of Minden Code, Chapter 90 (Zoning), Article XII, Zoning Board of Appeals, § 90-62 Powers and Duties

(c) Identification of Municipal Agency Qualified to Review and Approve Building Permits

Municipal officials for the Towns of Canajoharie and Minden are responsible for reviewing and approving local building permits requirements and compliance with the New York State Fire Prevention and Building Code and Energy Conservation Code of New York State.

Table 31-1 below, provides the names and contact information of the local Code Enforcement Officers for the Towns of Canajoharie and Minden.

Table 31-1. Local Contact Information for Review and Approval of Building Permits

Town	Contact Information
Canajoharie	Les Hassan 12 Mitchell Street Canajoharie, NY 13317 (518) 868-9358
Minden	Barry A. Vickers 134 Highway 80 Fort Plain, NY 13339 (518) 993-3443

(d) List of Applicable Local Ordinances and Laws of Substantive Nature

Below is a preliminary list of applicable local laws and ordinances of a substantive nature that may be applicable to the Facility. Copies of these local laws are included as Appendix 31-B.

Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System):

- § B 1-3 Bulk and Area Requirements
- § C 2 Signage
- § C 3 Visual
- § C 4 Lighting
- § C 5 Utilities
- § C 6 Access
- § C 7 Glare and Heat
- § C 10 Security
- § C 11 Noise
- § C 12 Inspections
- § C 13 Decommissioning
- § D Removal of Facilities

Town of Canajoharie Local Law No. 1 of 2004 providing for Enforcement of the State Uniform Fire Prevention and Building Code:

- § 8 Inspection
- § 9 Violations
- § 10 Stop Work Orders

Town of Canajoharie Local Law No. 2 of 2001 providing for the Subdivision Law of the Town of Canajoharie

Town of Canajoharie Local Law No. 2 of 1985 establishing an Electrical Code

Town of Canajoharie Ordinances:

- Subdivision Law, Article VI, Design Standards
- Subdivision Law, Article VII, Minimum Required Improvements
- Zoning, Article III, Use Regulations –
 - § A General
 - § B Schedule of Land Use Regulations
- Zoning, Article IV, Area and Bulk Regulations –
 - § A General
 - §B Density Standard
 - § C Schedule of Area and Bulk Regulations
- Zoning, Article VI, Supplementary Regulations –
 - § A.1 General Performance Standards Applicable to All Uses
 - § A.2 Accessory Uses and Structures
 - § A.3 Parking Requirements

- § A.5 Signs
- § A.6 Protection of Agriculture from Potentially Incompatible Uses
- § B.1 Accessory Uses and Structures
- § C.11 Personal Wireless Service Facilities
- Zoning, Article VII, Special Use Permits
- Zoning, Article IX, Site Plan Review
- Zoning, Article X, Administration and Enforcement
- Zoning, Article XI. B, Powers and Duties

Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24:

- § B 3 Applicability
- § D 1 Applicability
- § D 2 Applications
- § D 3 General Provisions
- § E Abandonment or Decommissioning

Town of Minden Local Law No. 1 of 2016 providing for Real Property Tax Exemptions – Chapter 83:

- § 83-19 Opt-out of Exemption

Town of Minden Local Law No. 1 of 1986 providing for Electrical Standards – Chapter 45:

- § 45-2 National Electrical Code

Town of Minden Ordinances:

- Chapter 45 (Electrical Standards)
 - § 45-3 Electrical Inspection
 - § 45-4 Violations
- Chapter 50 (Fire Prevention and Building Construction)
- Chapter 75 (Streets and Sidewalks), Article II, Road Preservation
 - § 75-8 Applicability
 - § 75-11 Activities Requiring Road Preservation Vehicle Permit
 - § 75-14 Application
 - § 75-16 Highway Permit Bond/Maintenance Bond
 - § 75-17 Multiple Permits
 - § 75-18 Injunctions
- Chapter 77 (Subdivision of Land), Article I, General Provisions
- Chapter 77 (Subdivision of Land), Article III, Review and Approval Procedure
- Chapter 77 (Subdivision of Land), Article IV, Documents to be Submitted
- Chapter 77 (Subdivision of Land), Article V, Design Standards and Required Improvements
- Chapter 77 (Subdivision of Land), Article VI, Financial Guaranties for Public Improvements
- Chapter 77 (Subdivision of Land), Article VII, Miscellaneous Provisions
- Chapter 90 (Zoning), Article III, Districts and Boundaries
- Chapter 90 (Zoning), Article IV, Use Regulations
- Chapter 90 (Zoning), Article V, Area and Height Regulations Lots, Yards and Buildings

- § 90-13 Regulations in Schedule A
- § 90-14 Area Regulations
- § 90-15 Height Regulations
- Chapter 90 (Zoning), Article VI, Preservation Overlay Districts
- Chapter 90 (Zoning), Article VII, Site Plan Approval and Special Permits
- Chapter 90 (Zoning), Article VIII, Supplementary Regulations –
 - § 90-30 General Land use Performance Standards
 - § 90-31 Personal Wireless Service Facilities
 - § 90-35 Accessory Buildings
 - § 90-38 Signs
 - § 90-40 Landscaping Requirements
 - § 90-46 Exterior Lighting
 - § 90-49 Public Utility and Facilities
 - § 90-51 Sanitary Regulations
- Chapter 90 (Zoning), Article IX, Off-Street Parking and Loading
- Chapter 90 (Zoning), Article XI, Administration
 - § 90-58 Building Permit
 - § 90-59 Certificate of Occupancy
 - § 90-60 Penalties for offenses
- Chapter 90 (Zoning), Article XII, Zoning Board of Appeals
 - § 90-62 Powers and Duties

(e) List of Substantive Local Ordinances/Laws That the Applicant Requests the Board Not Apply

For the Town of Canajoharie, the Applicant is requesting that the Siting Board provide a waiver from the following local laws and ordinances:

Boundary Line Setbacks

The Applicant seeks a waiver from those provisions of the Town of Canajoharie solar law that requires a minimum boundary line setback for Facility components.

The boundary line setback limitations are unreasonably burdensome in view of the design restrictions already placed on the development of the Facility. The Applicant has designed the Facility to ensure that no solar array panels are within the boundary line setbacks, except for Facility lease and easement holders (“Project participants”) with common parcel boundaries and select residential dirt/gravel driveways designated as Town roads. However, in order to minimize the potential impacts to land and the amount of acreage needed to accommodate the Facility, certain fencing, access roads, and underground electrical collection lines need to be placed within the minimum boundary line setback. Specific to fencing, access roads and landscaping, NYSERDA has recommended these components may occur within a setback in their Model Solar Energy Local Law (NYSERDA, New York Solar Guidebook, January 2019). Further, it is not possible for the Facility to interconnect to the electric grid without the collection lines crossing within the boundary

line setback, which runs counter to the intent and purpose of the local law in permitting the construction of solar facilities (this same concern also applies to access roads). If the Facility were forced to comply with this provision, it would need to utilize additional acreage thereby increasing the potential environmental impacts associated with construction and operation of the Facility.

For the reasons set forth above, the Applicant is seeking a waiver from the boundary line setback requirements in the Town of Canajoharie's solar law. Contemporaneous with the filing of this Application, on or around May 22, 2019, the Applicant has filed a variance request with the Town of Canajoharie for waiver of these substantive requirements.

With respect to the Town of Minden, the Applicant is requesting that the Siting Board provide a waiver from the following local laws and ordinances:

Acreage Limits

The Applicant seeks a waiver from those provisions of the Town of Minden solar law that limit the construction of utility-scale solar energy systems on more than 20%, or 10 acres, of any farmed parcel.

The acreage limitations are unreasonably burdensome in view of the design restrictions already placed on the development of the Facility. For optimal performance, and to minimize environmental impacts (including the clearing of forested areas), the Facility was sited in relatively flat open-land that permits southern exposure to the sun. As a result of the environmental and other studies conducted throughout the Article 10 process, the specific design of the Facility has been further modified several times to avoid, or minimize, potential impacts to, among other things, wetlands, threatened and endangered species, viewpoints, and ambient noise conditions. Any change to the existing layout to comply with the local law would result in increasing the environmental impacts associated with construction and operation of the Facility, and, in any event, there is no design configuration that would allow the Facility to comply with the acreage limits in the solar law within the Facility's permit footprint. Case in point, it is estimated that a minimum of 15 additional parcels would be required to site the proposed installed capacity in Minden, up from the current three (3) parcels. Therefore, there are no design changes that would obviate the need for this waiver.

Boundary Line Setbacks

The Applicant seeks a waiver from those provisions of the Town of Minden solar law that requires a minimum boundary line setback for Facility components.

The boundary line setback limitations are unreasonably burdensome in view of the design restrictions already placed on the development of the Facility. The Applicant has designed the Facility to ensure that no solar array panels are within the boundary line setbacks, except for Facility lease and easement holders ("Project participants") with common parcel boundaries and select residential dirt/gravel driveways designated as Town roads. However, in order to minimize the potential impacts to land and the amount of acreage needed to accommodate the Facility, as well as access the Facility and transport electrical power to the interconnection point, certain fencing, access roads, landscaping, and underground electrical collection lines need to be placed within the minimum boundary line setback. Specific to fencing, access roads and landscaping, NYSERDA has recommended these components may occur within a setback in their Model Solar Energy Local Law (NYSERDA, New York Solar Guidebook, January 2019). Further, it is not possible for the Facility to interconnect to the electric grid without the collection lines crossing within the boundary line setback, which runs counter to the intent and purpose of the local law in permitting the construction of solar facilities (this same concern also applies to access roads). If the Facility were forced to comply with this provision, it would need to utilize additional acreage thereby increasing the potential environmental impacts associated with construction and operation of the Facility.

Visual Screening

The Applicant is requesting a waiver from the provisions in the Town of Minden solar law that require the Facility to be fully screened.

The Applicant has designed the Facility to include a planting plan that will provide screening and coverage in order to minimize, to the greatest extent possible, views of the Facility. The planting plan has been designed to use native shrubs and grasses based on the character of existing vegetation communities within the Facility Site and surrounding parcels. As described in Exhibit 24, the intent of the planting plan is to both screen the Facility and minimize the potential visual effect of the Facility by visually integrating the project into the surrounding landscape. However, there will be portions of the Facility that will be visible. There are no design configurations that would allow the Facility to comply with the screening requirements in the solar law without resulting in additional environmental impacts. The use of other visual mitigation measures such as berms, opaque enclosures, or evergreen hedges have been considered but are not being proposed. The use of berms would require large areas of soil disturbance, which is contrary to the design objective of the Facility to minimize soil disturbance to the greatest extent practicable and could interfere with current or future agricultural uses of the Facility Site. In addition, the use of berms, opaque enclosures, or evergreen hedges would introduce new visual elements into the landscape that would be inconsistent with the character of the existing visual environment and therefore result in unnecessary visual impacts.

The screening requirements in the Town's law are unreasonably burdensome in view of the design restrictions already placed on the development of the Facility and would result in additional environmental impacts, as described above. Therefore, there are no additional practicable design changes (beyond those already considered and implemented by the Applicant) that would avoid significant environmental impacts and obviate the need for this waiver.

For the reasons set forth above, the Applicant is seeking a waiver from the acreage limitations, boundary line setbacks, and visual screening requirements in the Town of Minden's solar law. Contemporaneous with the filing of this Application, on or around May 22, 2019, the Applicant has filed a variance request with the Town of Minden for waiver of these substantive requirements.

(f) List of Procedural Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

The proposed Facility will not require any physical connections for water or sewer lines. Specific to the O&M building, if a new building is constructed water and wastewater needs will be satisfied through the use of water carried on-site and portable toilets, respectively. If an existing building is used for O&M purposes, the Applicant will evaluate the adequacy of the existing water supply and wastewater treatment systems.

Since the Facility will not be connecting to any water, sewer, or steam lines in public rights of ways, the Applicant has not identified any local laws or ordinances of a procedural nature that are applicable. Regarding telecommunications, it is anticipated that the O&M facility will connect to the Spectrum fiber-optic line that runs within the public ROW along Clinton Road. No permits associated with this connection are anticipated.

(g) List of Substantive Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

As discussed in Section (f) above, the Facility will not be connecting to any water, sewer, or steam lines in public rights of ways. Therefore, the Applicant has not identified any local laws or ordinances of a substantive nature that are applicable.

(h) Local Ordinances/Laws Related to Use of Water/Sewer that the Applicant Requests the Board Not Apply

Since, the Facility will not require any physical connections to water or sewer lines, the Applicant has not identified any local laws or ordinances that it anticipates requesting that the Board not apply.

(i) Summary Table of Substantive Local Requirements

The table below provides a list of all applicable substantive requirements to the Facility and a description of how the Applicant plans to adhere to those requirements.

Table 31-2. List of Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Substantive Requirement	Plans to Adhere to Requirement
Town of Canajoharie	
Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System)	
<p>Section B 1-3 Bulk and Area Requirements</p> <p>The following dimensional requirements shall apply to all utility-scale solar collector systems:</p> <p>1. Height.</p> <p style="padding-left: 40px;">a. All solar collectors shall have a maximum height of 20 feet from ground elevation.</p> <p style="padding-left: 40px;">b. All buildings and accessory structures associated with the utility-scale solar collector system shall have a maximum height of 35 feet, excluding the solar collector.</p> <p>2. Setback. All utility-scale solar collector systems and associated buildings, accessory structures, and equipment shall have a minimum setback from any property line of 200 feet: depending on circumstances. A 200 foot setback is not required between an individual property owners' utility scale solar collector system when subdivided based on the NY Public Service Law (PSL Section 66-j), that limits solar facilities to 2 MW per deeded parcel.</p> <p>3. Lot coverage.</p> <p style="padding-left: 40px;">a. Impervious surface lot coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a maximum of 20% impervious lot coverage.</p> <p style="padding-left: 40px;">b. Pervious surface lot coverage. All utility-scale solar collector systems and associated accessory structures and equipment shall utilize a minimum of 80% permeable lot coverage.</p> <p style="padding-left: 40px;">c. Tree removal shall be minimized and replanting, at the discretion of the Planning Board, should be considered on parcels where a large amount of trees are being removed in order to place solar arrays.</p>	<p>The provision of Section 3 (c) permitting the Planning Board to require replanting is procedural rather than substantive and is therefore supplanted by Article 10. However, the Applicant is requesting the Siting Board permit the Town of Canajoharie Zoning Board of Appeals to review and approve the Applicant's variance request to permit the Facility to exceed certain limitations discussed herein. The Facility is otherwise designed to adhere to the substantive requirements in this Section.</p>
<p>Section C 2 Signage</p> <p>All signage shall be provided as part of site plan review and shall be in</p>	<p>The requirement to obtain site plan review is procedural rather than substantive and is therefore</p>

Substantive Requirement	Plans to Adhere to Requirement
accordance with Article VI of this Zoning chapter.	supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
<p>Section C 3 Visual</p> <p>a. Utility-scale solar collector systems shall be sited in a manner to have the least possible practical visual effect on the environment.</p> <p>b. A visual environmental assessment form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, surrounding topography, and proposed elevations shall be required.</p> <p>c. Landscaping, screening and/or earth berming shall be provided to minimize the potential visual impacts associated with the utility-scale solar collector systems and its accessory buildings, structures and/or equipment. Additional landscaping, screening and/or earth berming may be required by the Town Board and/or the Planning Board to mitigate visual and aesthetic impacts.</p> <p>d. The associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.</p>	<p>The provision of Section C 3 (c) allowing the Town Board and/or Planning Board to require additional landscaping, screening, and/or earth berming is procedural rather than substantive and is therefore supplanted by Article 10.</p> <p>In addition, although the requirement to provide a Visual EAF is supplanted by Article 10, the Applicant has prepared a Visual Impact Study as part of this Application. See Exhibit 24.</p> <p>The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 4 Lighting</p> <p>A lighting plan shall be required. No utility-scale solar collector system shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.</p>	<p>The requirement to provide a lighting plan is procedural rather than substantive and is therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 5 Utilities</p> <p>The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-solar collector system. Electric and land-based telephone utilities extended to serve the site shall be underground.</p>	<p>The requirement to provide written confirmation regarding capacity of the electric grid is procedural rather than substantive and is therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 6 Access</p> <p>The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.</p>	<p>The requirements to obtain site plan review and Planning Board approval are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>Section C 7 Glare and Heat</p> <p>No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.</p>	<p>The Applicant notes that this provision is subjective rather than quantitative in nature. However, the Facility is designed to otherwise adhere to the substantive requirements of this Section.</p> <p>Regarding glare, the Applicant conducted a glare study, which is described in the introduction of Exhibit 31.</p>
<p>Section C 10 Security</p> <p>Each site shall have a minimum of an eight-foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site as approved by the Planning Board during site plan review.</p>	<p>The requirements to obtain site plan review and Planning Board approval are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 11 Noise</p> <p>Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties as approved by the Planning Board during site plan review.</p>	<p>The requirements to obtain site plan review and Planning Board approval are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 12 Inspections</p> <p>The site must be inspected twice a year by the applicant or lessee, and a written report must be filed with the Town Clerk of Canajoharie and sent to the Town Code Enforcement Officer at least once per year.</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>
<p>Section C 13 Decommissioning</p> <p>The following requirements shall be met for decommissioning:</p> <ul style="list-style-type: none"> a. Solar farms and solar power plants which have not been in active and continuous service for a period of 12 consecutive months shall be removed at the owner's or operator's expense. b. The site shall be restored to as natural a condition as possible within 6 months of removal. 	<p>To the extent these provisions require the Applicant to receive and abide by Town-specific requirements related to providing financial assurances or impose a Town directed decommissioning plan, these provisions are supplanted by Article 10. See Exhibit 29.</p>
<p>Section D Removal of Facilities</p> <p>Required sureties for construction, maintenance and removal of utility-scaled</p>	<p>To the extent these provisions require the Applicant to receive and abide by Town-specific</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>solar collector systems.</p> <p>a. Decommission Code Estimate. The applicant or lessee shall provide a Decommissioning Cost Estimate prepared by a N.Y.S. Licensed Engineer prior to the issuance of the building permits. The cost shall be calculated by taking the Gross Cost plus the Administered Factor 20% minus the Salvage Cost in order to determine the Decommission Cost Estimate for bonding and insurance purposes. The applicant or lessee must also provide a revised and updated Decommissioning Cost Estimate on every fifth (5th) anniversary of the date the project first began continuously delivering electric energy to the electric grid for commercial sales.</p> <p>b. Performance bond and other security. Prior to the issuance of a building permit, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the utility-scale solar collector system and any associated accessory structures upon abandonment of said facility shall be provided by the owner/operator. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law. If the owner of the site fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provided by the applicant. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the certificate of occupancy.</p> <p>c. Removal. The utility-scale solar collector system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the utility-scale solar collector system has been inoperative or abandoned for 12 consecutive months. As a condition of the certificate of compliance, applicants shall post a surety in an amount and form acceptable to the Town for the purposes of removal or abandonment. The amount shall be determined by an estimate of a NYS Certified Engineer. Acceptable forms shall include, in order of preference: cash; letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the utility-scale solar collector system should the system be abandoned. Abandonment shall be assumed by the Town if the annual documentation as required in Utility scale solar collector system section (12) is not provided by the owner, applicant or lessee for one year to the Town of Canajoharie Code Enforcement Officer. With the assistance of a NYS Certified Engineer the Town Code Enforcement Officer shall then provide written notice to the owner to remove the utility-scale solar collector system, and the owner shall have three months from written notice to remove the utility-scale solar collector system, including any</p>	<p>requirements related to providing financial assurances or impose a Town directed decommissioning plan, these provisions are supplanted by Article 10. See Exhibit 29.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board; to include but not limited to water and soil contamination. If the owner, applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided by the applicant.</p>	
<p>Town of Canajoharie Local Law No. 1 of 2004 providing for Enforcement of the State Uniform Fire Prevention and Building Code</p>	
<p>Section 8 Inspection</p> <p>A. Inspections during construction.</p> <ol style="list-style-type: none"> 1. Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the inspector that the work is ready for inspection and to schedule such inspection. 2. If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the inspector of the situation, may apply for an order to make an inspection to any court of competent jurisdiction. <p>B. Fire prevention and Safety Inspection.</p> <ol style="list-style-type: none"> 1. Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and housing maintenance requirements of the Uniform Code at least once in every thirty-six (36) months. Inspection of such buildings shall include the common areas such as halls, foyers, staircases, etc. and vacant dwelling units. Where the tenants of occupied dwelling units allow, the inspection may include such units. 2. Fire safety inspection of buildings or structures having areas of public assembly as defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations shall be performed at least once in every twelve (12) months. 3. All other buildings, uses and occupancies (except one or two family dwellings) shall be inspected at least once in every twenty-four (24) months. 4. An inspection of a building or dwelling unit may also be performed at any other time upon: <ol style="list-style-type: none"> a. The request of the owner, authorized agent, or tenant; b. Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exists; or 	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>c. Other reasonable shall be performed by the Code Enforcement Official.</p> <p>5. Such inspections shall be performed by the Code Enforcement Official.</p>	
<p>Section 9 Violations</p> <p>A. Upon determination that a violation of the Uniform Code or this local law exists in, or about any building or premises, the Code Enforcement Official shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code, which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by registered mail.</p> <p>B. In addition to those penalties prescribed by State law, any person, firm or corporation who or which violates any provision of the Uniform Code or any rule or regulation of this local law, or the terms or conditions of any Certificate of Occupancy issued by the Building and Fire Safety Inspector, shall be liable to a civil penalty of not more than \$200.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Official.</p> <p>C. Alternatively or in addition to an action to recover the civil penalties provided by subsection (b), the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or condition of any Certificate of Occupancy issued by the Code Enforcement Official.</p>	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section 10 Stop Work Orders</p> <p>Whenever the Code Enforcement Official has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and suspend all building activities until the stop work order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by registered mail at the address set forth in the application for the permission of the construction of such building.</p>	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Town of Canajoharie Local Law No. 2 of 2001 providing for the Subdivision Law of the Town of Canajoharie</p>	
<p>See attachment for detailed provisions.</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
Town of Canajoharie Local Law No. 2 of 1985 establishing an Electrical Code	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Town of Canajoharie Ordinances	
Subdivision Law, Article VI, Design Standards	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Subdivision Law, Article VII, Minimum Required Improvements	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Zoning, Article III, Use Regulations	
<p>Section A General</p> <p>A.1. After the effective date of this Local Law, no land or structure shall be used, occupied, erected, moved or altered unless in conformance with the Schedule of Use Regulations specified in this Article.</p> <p>A.2. Pursuant to Section 280-a(4) of the Town Law, the Town Board hereby establishes the R-Residential District and A-Agricultural/Rural Residential District as open development areas. Permits may be issued for structures on lots that have no public or private road frontage and gain access by right-of-way or easement over other lands, under the following conditions:</p> <p style="padding-left: 40px;">A.2.1. Such right-of-way or easement providing access to a public street shall not be less than fifty (50) in width.</p> <p style="padding-left: 40px;">A.2.2. Such right-of-way or easement shall never serve or provide access to more than four (4) uses or structures.</p> <p style="padding-left: 40px;">A.2.3. Such right-of-way or easement must provide safe access for fire, police, and emergency vehicles.</p> <p>A.3. The appropriate category of use to be applied to any proposed use not specifically identified and/or defined in this law shall be determined by the Code Enforcement and Zoning Officer, subject to Appeal for Interpretation pursuant to Article XI of this law.</p> <p>A.4. All uses are subject to the requirements of Article IV (Area and Bulk Regulations) and Article VI, Section A.3 (Parking Requirements).</p>	Provisions noted. The area and bulk requirements are supplanted by the provisions included in Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System). The O&M Building is designed to adhere to the substantive requirements of this Section. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
<p>Section B Schedule of Land Use Regulations</p> <p>See attachment for schedule of uses.</p>	The Facility is designed to adhere to the substantive requirements of this Section.
Zoning, Article IV, Area and Bulk Regulations	

Substantive Requirement	Plans to Adhere to Requirement
<p>Section A General</p> <p>A.1. After the effective date of this local law, no use shall be commenced, nor any building or structure or part thereof shall be erected, structurally altered, enlarged, rebuilt or moved except in conformance with the provisions of the Area and Bulk Regulations described in this Article for the District in which such use, building or structure is located.</p> <p>A.2. The area required for complying with the setback requirement or Density Standard for any Principal Building as defined herein, shall not be counted as providing required open space, land area, or setback for any other use or structure.</p> <p>A.3. A new lot or lots may be created through subdivision or combination of an existing lot or lots provided that all resulting lots comply with the area and bulk regulations established in this local law and also comply with the Town Subdivision Law, as amended.</p> <p>A.4. With the exception of Personal Wireless Service Facilities which are specifically regulated under Article VI.C.11 Personal Wireless Service Facilities, all steeples, belfries, radio or television antennae (other than dish antennae) customary to residential uses, cupolas, towers, or similar architectural features, firetowers, chimneys, elevator bulkheads, flagpoles, smokestacks, agricultural structures located within a State Certified Agricultural District, and official police and fire radio antennae shall be exempt from the height requirements of this local law provided they do not constitute a public safety hazard.</p>	<p>Provisions noted. The area and bulk requirements are supplanted by the provisions included in Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System). The O&M Building is designed to adhere to the substantive requirements of this Section.</p>
<p>Section B Density Standard</p> <p>B.1. The Density Standard is the minimum land area required per principal building.</p> <p>B.1.1. The Density Standard for all uses in the R-Residential Districts shall be three (3) acres per principal building.</p> <p>B.1.2. The Density Standard for all uses in the A-Agricultural/Rural Residential District shall be three (3) acres per principal building.</p> <p>B.1.3. The Density Standard for all uses in the C-Commercial Districts shall be one (1) acre per principal building if such buildings are served by municipal water and sewer, three (3) acres per principal building otherwise.</p> <p>B.1.4. The Density Standard for all uses in the M-Manufacturing District shall be one (1) acre per principal building if such buildings are served by municipal water and sewer service, three (3) acres per principal building otherwise.</p>	<p>Provisions noted. The O&M Building is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>B.2. The density can be satisfied by either of the following.</p> <p>B.2.1. A minimum lot size sufficient to meet the density standard for the district in which the use is located independently of any other use or property; or</p> <p>B.2.2. The commitment of land to an irrevocable conservation easement or land conservation trust, dedication to and acceptance by the state, county, town or any village as publicly owned or park land, or other legally enforceable mechanism that guarantees permanent and irrevocable removal of sufficient land area otherwise suitable for development purposes from any and all future development, such that the average area per principal building is equal to or greater than the density standard. Such irrevocable removal of land from development shall be subject to the approval of the Planning Board as to form and substance of the legal mechanism, conditions on use of such land, and area and location of such land.</p> <p>B.2.2.1. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a subdivision subject to the Town Subdivision Law, said review and approval shall be conducted simultaneously with subdivision review and approval.</p> <p>B.2.2.2. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to Site Plan Review, said review and approval shall be conducted simultaneously with Site Plan Review.</p> <p>B.2.2.3. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to neither the Town Subdivision Law nor Site Plan Review, the property owner shall apply directly to the Planning Board for independent review, and approval shall be a condition for issuance of the Certificate of Zoning Compliance pursuant to this law.</p> <p>B.3. Land irrevocably removed from any and all future development for purposes of satisfying the density standard may be used for any of the following purposes:</p> <p>B.3.1. Agriculture, farming, pasture, woodlands, or related uses not including buildings or structures.</p> <p>B.3.2. Active or passive outdoor recreation not including buildings or structures.</p> <p>B.3.3. Individual or combined septic systems, leach fields or</p>	

Substantive Requirement	Plans to Adhere to Requirement
<p>other subsurface sanitary disposal systems.</p> <p>B.3.4. Unused or vacant land, either maintained or non-maintained.</p> <p>B.4. A Principal Building is a building in which the main or principal use of the lot is conducted. If more than one (1) principal building per lot is planned, the lot shall be subject to the requirements of Article IX, Site Plan Review, unless said lot is part of a Farm Operation. For the purposes of applying the Density Standards stated in Section B.1 above, the following shall constitute one principal building:</p> <p>B.4.1. All agricultural use structures and one single-family dwelling or mobile home which are part of a Farm Operation, together constitute and count as one principal building.</p> <p>B.4.2. A single-family dwelling, or mobile home located outside of a Mobile Home Community, constitutes one principal building.</p> <p>B.4.3. Up to two (2) dwelling units of a two-family or multi-family dwelling, together constitute one principal building.</p> <p>B.4.4. Up to twelve (12) mobile homes located within a Mobile Home Community together constitute one principal building.</p> <p>B.4.5. A tourist cabin or similar structure for rent or hire with more than 300 square feet of net floor area constitutes one principal building.</p> <p>B.4.6. Up to four (4) motel units, hotel units, accommodation units in a tourist home or similar structure, or tourist cabin units for rent or hire in which each individual unit encompasses less than 300 feet of net floor area, together constitute one principal building.</p> <p>B.4.7. Up to three (3) campsites for the parking of occupied recreational vehicles or travel trailers or the erection of tents or other shelters for temporary residential use together constitute one principal building.</p> <p>B.4.8. For each commercial use or structure for the retail sale, rental or distribution of goods, services or commodities, each 5,000 square feet of gross floor space or portion thereof of such commercial use structure constitutes one principal building.</p> <p>B.4.9. For any industrial or manufacturing use structure, each 8,000 square feet of gross floor area or any fraction thereof shall constitute one principal building.</p> <p>B.4.10. A structure containing a commercial use which is also used as a single family dwelling constitutes one principal building, provided the commercial use does not exceed 2,500 square feet of net floor area.</p>	

Substantive Requirement	Plans to Adhere to Requirement
<p>B.4.11. Any other structure not defined in this section which exceeds 1250 square feet of floor space constitutes one principal building.</p> <p>B.4.12. An accessory building or structure in any district, and any agricultural accessory building not used for residential or commercial purposes, does not constitute and shall not count as a principal building.</p>	
<p>Section C Schedule of Area and Bulk Regulations</p> <p>See attachment for schedule of area and bulk requirements.</p>	<p>These requirements are supplanted by the provisions included in Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System).</p>
<p>Zoning, Article VI, Supplementary Regulations</p>	
<p>Section A.1 General Performance Standards Applicable to All Uses</p> <p>In any district, the following performance standards shall apply, subject to the limitations on the regulation of Farm Operations contained in Section I:D Right-to-Farm.</p> <p>A.1.1. No offensive or objectionable vibration, noise, or glare shall be noticeable at or beyond the property line.</p> <p>A.1.2. No activity shall create a physical hazard by reason of fire, explosion, radiation, or other such cause, to persons or property in the same or an adjacent district.</p> <p>A.1.3. No material of any nature which may contaminate any water supply shall be discharged into any stream or body of water or any public or private disposal system, or into or onto the ground surface.</p> <p>A.1.4. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin, or endangers health.</p> <p>A.1.5. The emission of smoke, fly ash, dust, or other airborne material which can cause damage to the health of persons, animals, plant life, or to other forms of property is prohibited. This provision is not intended to regulate or prohibit the customer use of residential fireplaces, woodburning stoves, coal burning stoves, or smokehouses.</p>	<p>Provisions noted, though the Applicant observes that many of these provisions are subjective rather than quantitative in nature. However, the Facility is designed to otherwise adhere to the substantive requirements of this Section.</p> <p>Regarding glare, the Applicant conducted a glare study, which is described in the introduction of Exhibit 31.</p>
<p>Section A.2 Accessory Uses and Structures</p> <p>A.2.1. No accessory uses or accessory structures except fences, berms, flagpoles, or wellhouses and farmstands shall be located in the established front yard.</p> <p>A.2.2. In all districts, walls and fences shall be permitted except where they are of such a height or location as to interfere with sight</p>	<p>Provisions noted. The Facility is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>clearances required for traffic safety.</p> <p>A.2.3. Fences or walls shall be required for the enclosure of outdoor storage areas and trash dumpsters accessory to multiple family, commercial, and industrial or manufacturing uses.</p>	
<p>Section A.3 Parking Requirements</p> <p>Off-street parking spaces shall be provided subject to the following provisions:</p> <p>A.3.1. Required Off-Street Parking Spaces: See attachment for table on required parking spaces by use.</p> <p>A.3.2. Reasonable and appropriate off-street parking requirements for structures and uses not specifically designated in these regulations shall be determined by the Planning Board during Site Plan Review upon consideration of all factors entering into the parking needs of the proposed structure or use.</p> <p>A.3.3. Areas which may be computed as open or enclosed off-street parking spaces include:</p> <p style="padding-left: 40px;">A.3.3.1. any private garage or carport available for parking.</p> <p style="padding-left: 40px;">A.3.3.2. a driveway within a front yard for a one or two-family residence may count as one (1) parking space.</p> <p style="padding-left: 40px;">A.3.3.3. any parking area under common ownership with the principal use located within 400 ft. of the main entrance of such use. Such vehicle parking area shall be deemed to be required open space associated with the permitted use and shall not be encroached upon.</p> <p>A.3.4. Each off-street parking space shall be not less than two hundred (200) square feet in area and, if in a parking lot, shall be a minimum of ten (10) feet wide by twenty (20) feet deep and shall be served by an aisle not less than twenty (20) feet wide for a one-way circulation flow. Entrance and exit lanes shall not be computed as parking space, except for driveways of one- and two-family residences, as in Section A.3.3., above.</p> <p>A.3.5. Except in the case of a one- or two-family residence using the drive-way to provide parking, no parking shall be allowed in the established front yard of any use in the R-Residential District.</p> <p>A.3.6. Unobstructed access to and from a street shall be provided. Access drives shall be of sufficient width to permit the free flow of cars both entering and leaving the parking area. Access drives for any off-street parking area with a capacity of more than four (4) spaces shall be located in a manner which ensures traffic safety shall be subject to Site Plan review by the Planning Board. Access drives shall not have a grade in excess of six percent (6%) within twenty-five (25) feet of any street right-of-way line nor ten percent (10%) at any other point.</p> <p>A.3.7. All parking areas shall be properly drained and all such areas, except for parking spaces accessory to a one- or two-family dwelling, shall be provided with a surface that minimizes dust, such as paving,</p>	<p>Provisions noted. The Facility is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>crushed stone or gravel.</p> <p>A.3.8. One (1) camping trailer, motor home or boat trailer may be stored on a lot provided the trailer or motor home is not stored between the street line and the building line. A second such vehicle may be stored on the same lot provided it is stored in the rear yard or parking area.</p> <p>A.3.9. Except for new or used vehicle sale lots where permitted, no more than one (1) vehicle not in current registration shall be stored outdoors, and all such vehicles shall be screened from neighboring properties.</p>	
<p>Section A.5 Signs</p> <p>A.5.1. No new billboards shall be permitted in any district.</p> <p>A.5.2. All signs shall be placed as to not obstruct the vision of motorists entering or leaving the property or adjoining properties. No sign shall project into or over the public right-of-way.</p> <p>A.5.3. No sign shall be mounted on or attached to any roof, nor shall any sign extend above the roofline of any building on the site.</p> <p>A.5.4. If a sign is illuminated, the source of light shall be shielded from view and shall not be visible from the property line.</p> <p>A.5.2. In all districts non-flashing signs are permitted as follows:</p> <p>A.5.2.1. One nameplate, identification or professional sign, not to exceed an aggregate of ten (10) square feet of sign area, showing the name or permitted home occupation of the occupant of the premises.</p> <p>A.5.2.2. One sign not to exceed an aggregate of thirty-two (32) square feet of sign area, during and pertaining to the sale, lease or rental of the land or building.</p> <p>A.5.2.3. One temporary sign not to exceed an aggregate of thirty-two (32) square feet of sign area, during and pertaining to construction, repairs, or alterations to the property.</p> <p>A.5.2.4. Institutional, religious, or community announcement signs, not to exceed thirty-two (32) aggregate feet in area.</p> <p>A.5.2.5. Two (2) farm product signs, each not exceeding thirty-two (32) aggregate feet in area, may be displayed on the property, but only when such products are on sale.</p> <p>A.5.2.6. A business sign or signs directing attention to business or profession conducts, or a commodity, service or entertainment offered or sold on the premises shall be permitted. Such sign or signs shall not exceed the aggregate of thirty-two (32) square feet in area for hanging, wall and pedestal signs. In the case of a retail center or other group of related buildings, in addition to the general sign, each individual unit may display an identification sign</p>	<p>Provisions noted. The Facility is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>affixed flat against the building which shall no exceed one (1) square foot of area for each foot of building frontage.</p>	
<p>Section A.6 Protection of Agriculture from Potentially Incompatible Uses</p> <p>A.6.1. Agricultural Setbacks</p> <p>The following minimum separation distances between wells and manure sources or manure storage areas shall apply to a farm operation and its neighboring properties:</p> <ul style="list-style-type: none"> ○ Temporary manure piles – one hundred (100) feet from well ○ Lined manure storage ponds or fabricated units – one hundred (100) feet from well ○ Unlined self-sealing manure storage facilities – three hundred (300) feet from well ○ Livestock confinement areas or structures – one hundred (100) feet from well <ul style="list-style-type: none"> ○ A.6.2. Required Disclosure ○ In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: “This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration.” This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, or letter of notification. This section may also be applied to any commercial development which abuts agricultural land, at the discretion of the Planning Board. ○ A.6.3. Agricultural Data Statement ○ Any application for a Special Use Permit, Site Plan approval, Use Variance, or Subdivision approval requiring municipal review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Article XIII. The Planning Board or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the function of farm operations within the agricultural district. 	<p>These requirements are supplanted by the provisions included in Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System).</p>
<p>Section B.1 Accessory Uses and Structures</p> <p>See attachment for detailed provisions.</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>
<p>Section C.11 Personal Wireless Service Facilities</p>	<p>The Facility is designed to adhere</p>

Substantive Requirement	Plans to Adhere to Requirement
See attachment for detailed provisions.	to the substantive requirements of this Section.
Zoning, Article VII, Special Use Permits	
See attachment for detailed provisions.	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
Zoning, Article IX, Site Plan Review	
See attachment for detailed provisions.	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
Zoning, Article X, Administration and Enforcement	
See attachment for detailed provisions.	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
Zoning, Article XI. B, Powers and Duties	
See attachment for detailed provisions.	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. However, the Applicant is requesting the Siting Board permit the Town of Canajoharie Zoning Board of Appeals to review and approve the Applicant's variance request to permit the Facility to exceed certain limitations discussed herein.
Town of Minden	
Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24	
Section B 3 Applicability All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as	Provision noted.

Substantive Requirement	Plans to Adhere to Requirement
referenced in the State Building Code.	
<p>Section D 1 Applicability</p> <p>a. Any utility-scale solar energy system erected, constructed, modified, or operated in the Town of Minden after the effective date of this local law shall be in compliance with this Section. Subsection D is applicable to utility-scale solar energy systems and shall not apply to small-scale solar energy systems, as defined herein.</p> <p>b. Utility-scale solar energy systems are allowed with a special use permit and site plan review by the Planning Board only in the Agricultural District. Such systems are prohibited from all other zoning districts in the Town of Minden.</p> <p>c. In order to promote innovative design and encourage the inclusion of alternative energy systems within the overall design of a building, solar energy systems determined by the Code Enforcement Officer to be building-integrated photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this section. BIPV systems are still required to meet applicable building codes and obtain all necessary permits. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered a BIPV system.</p>	<p>The requirements to obtain a special use permit and site plan review are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>
<p>Section D 2 Applications</p> <p>Applications, Permits and Approvals Required and Applicable Zoning Districts</p> <p>a. All applications for utility-scale solar energy systems shall be accompanied by an application for special use permit and site plan review, and all applicable fees as may be established by the Town Board. Both site plan and special use permit reviews and approvals are required. The Planning Board shall however, concurrently review the site plan and special use permit applications. All applications shall include the name and contact information for both the landowner(s) of the parcel where the project is proposed and the solar facility operators.</p> <p>b. All applications for utility-scale solar energy systems shall include the following:</p> <ol style="list-style-type: none"> 1. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval. 2. An electrical diagram detailing the solar energy system installation, associated components, and electrical 	<p>The requirements to obtain a special use permit, site plan review, and provide certain plans and documents are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>interconnection methods, with all disconnects and over-current devices identified.</p> <p>3. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.</p> <p>4. Plan for clearing and/or grading of the site. The clearing and grading plan shall also include methods to stockpile, reduce erosion of, and reuse all top soil from the site.</p> <p>5. A stormwater pollution prevention plan as per NYS DEC requirements to detail stormwater runoff management and erosion control plans for the site.</p> <p>6. Documentation of utility notification, including an electric service order number.</p> <p>7. Decommissioning plan and description of financial surety that satisfies the Town that all required improvements shall be made for utility-scale systems only. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.</p> <p>8. The Town shall require any applicant to pay all associated costs for any application review, including but not limited to engineering, legal, environmental, planning, and the review required under SEQRA to the Town Clerk. When the Planning Board determines that a review will require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, such payment shall be made prior to commencement of any further Planning Board review.</p> <p>9. Photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed solar energy system, solar collectors, and all other components.</p> <p>10. Part I of the Full Environmental Assessment Form filled out.</p> <p>11. Details of the proposed noise that may be generated by inverter fans. The Planning Board shall require a noise analysis to determine potential adverse noise impacts.</p>	
Section D 3 General Provisions	The applicant seeks a waiver of the acreage size limits, boundary line

Substantive Requirement	Plans to Adhere to Requirement
<p>All applications for utility-scale solar energy systems shall be in accordance with the following:</p> <ul style="list-style-type: none"> a. All utility-scale solar energy systems shall adhere to all applicable Town of Minden building, plumbing, electrical, and fire codes. b. A minimum parcel size of 20 acres is required for utility-scale solar energy systems. c. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Minden or other federal or state regulatory agencies. Applicants shall use the adopted Town of Minden Comprehensive Plan, showing sensitive environmental features along with other site information to identify and describe how the proposed utility scale solar energy system shall avoid or mitigate adverse impacts to these resources. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands, or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided. d. There shall be a minimum 100 foot buffer between any component of the utility-scale solar energy system and the parcel boundary line. The Planning Board is authorized to increase the width of this buffer after analysis of site conditions and adjacent land uses. e. Any site containing a utility-scale solar energy system shall be enclosed by perimeter fencing at a height of 8 1/2 feet to restrict unauthorized access. f. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction. g. Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale solar facility may be permitted, provided the percentage of newly cleared land on any parcel does not exceed 30% of the existing woodlands on that parcel. h. Solar arrays and agriculture. In accordance with the Comprehensive Plan, the Town of Minden does not support conversion of productive farmland to support grid-supply facilities. When proposed on an active farm located within the New York State Certified Agricultural District in Minden, a utility-scale solar energy system may occupy up to 20% of any farmed parcel but in no case shall exceed 10 acres. Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or NRCS. i. Native grasses and vegetation shall be maintained below the arrays. j. The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or 	<p>setbacks, and visual screening requirements of this Section. The Facility is otherwise designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>minimize visual impacts as viewed from</p> <ol style="list-style-type: none"> 1. Publicly dedicated roads and highways, including Route 55, 163, 80 and 1-90; 2. Existing residential dwellings located on contiguous parcels; <p>k. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of fully screening the site, shall be provided (See example illustration, below).</p> <p>l. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.</p> <p>m. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.</p> <p>n. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.</p> <p>o. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.</p> <p>p. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations. The manufacturers or installer's identification, contact information, and appropriate warning signage shall be posted at the site and clearly visible.</p> <p>q. The average height of the solar panel arrays shall not exceed fifteen feet.</p> <p>r. Due to the need to keep the solar skyspace for solar energy systems free from obstructions, the Planning Board may recommend modifying the landscaping requirements on an adjacent parcel when it is subject to a site plan or special use permit request to ensure that any landscaping proposed there is low-growth vegetation that will not obstruct the solar skyspace at mature height.</p> <p>s. Following construction of a large-scale or utility-scale</p>	

Substantive Requirement	Plans to Adhere to Requirement
<p>ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust.</p> <p>t. Special use permits granted for utility-scale solar energy systems shall be assignable or transferable to future landowners of that system on the approved parcel so long as they are in full compliance with this section and all conditions, and the Code Enforcement Officer is notified of the property transfer at least 15 days prior thereto.</p> <p>u. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this article.</p> <p>v. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.</p>	
<p>Section E Abandonment or Decommissioning</p> <p>1. All applications for a utility-scale solar energy facility shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the utility-scale solar energy facility or structure. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost; as determined by the engineer retained by the Town, to ensure removal of the facility or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the consulting Engineer and Town Attorney, and the guarantee must remain in effect until the system is removed. Review of the guarantee by the consulting Engineer and Town Attorney shall be paid from an escrow established by the applicant. Prior to removal of a utility-scale solar energy facility or structure, a demolition permit for removal activities shall be obtained from the Town of Minden.</p> <p>2. If the applicant ceases operation of the utility-scale solar energy facility or structure for a period of 18 months, or begins but does not complete construction of the project within 18 months after receiving final site plan approval, the applicant will submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition without delay, including but not limited to the following:</p>	<p>To the extent these provisions require the Applicant to receive and abide by Town-specific requirements related to providing financial assurances or impose a Town directed decommissioning plan, these provisions are supplanted by Article 10. See Exhibit 29.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>a. Removal of all aboveground and belowground equipment, structures and foundations including but not limited to ground anchors; cables, wiring, concrete foundations, switchyards, control houses, fencing, and inverters.</p> <p>b. Restoration of the-surface grade and top soil after removal of equipment. Compacted portions shall be decompacted and excavations shall be backfilled to restore the site.</p> <p>c. Revegetation of restored top soil areas with native seed mixes, excluding any invasive species.</p> <p>d. The plan shall include a time frame for the completion of site restoration work.</p> <p>3. In the event that construction of the utility-scale solar energy facility or structure has been started but is not completed and functioning within 18 months of the issuance of the final site plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.</p> <p>4. Upon cessation of activity of a fully constructed utility-scale solar energy facility or structure for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator shall either restore operation equal to at least 80% of approved capacity, or implement the decommissioning plan.</p> <p>5. If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.</p> <p>6. The Planning Board is authorized to seek and use legal, engineering, planning, or other professional assistance for the review of any utility-scale solar energy facility. All costs incurred related to retention of any such assistance shall be paid in full by the applicant.</p>	
Town of Minden Local Law No. 1 of 2016 providing for Real Property Tax Exemptions – Chapter 83	

Substantive Requirement	Plans to Adhere to Requirement
<p>Section 83-19 Opt-out of Exemption</p> <p>Section 1. Purpose</p> <p>Real Property Tax Law Section 487 provides for an exemption from taxation for certain solar energy systems, wind energy systems or farm waste energy systems, and further provides in sub-section 8 of such section that a town may by local law provide that no exemption under this section shall be applicable within its jurisdiction with respect to any solar energy systems, wind energy systems or farm waste energy system constructed subsequent to the effective date of this local law. Section</p> <p>Section 2. Opt Out of Exemption</p> <p>Pursuant to the authority of Real Property Tax Law Section 487, sub-section 8, the Town of Minden hereby opts out of the exemption from real property taxes granted by Real Property Tax Law Section 487, sub-section 2, and related sub-sections, so that no exemptions under the provisions of said Real Property Tax Law shall be applicable to town taxes with respect to solar energy systems, wind energy systems or farm waste energy systems in the Town of Minden.</p> <p>Section 3. Separability</p> <p>Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.</p> <p>Section 4. Repealer</p> <p>This Local Law shall supersede all prior local laws, ordinances, rules and regulations of die Town of Minden that may be inconsistent with this local law and any such prior local laws, ordinances, rules and regulations shall be, upon the effective date of this Local Law, null and void.</p> <p>Section 5. Effective Date</p> <p>This Local Law shall take effect immediately upon filing with the Secretary of State.</p> <p>Section 6. Numerical/Lettering Designations</p> <p>The chapter designations and numerical/lettering designations of the section and article(s) included in the Local Law shall be delegated to the discretion of</p>	<p>Provisions noted.</p>

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General Code Publishers, which may renumber the chapter, sections and Article(s) included in this Local law as necessary to accommodate incorporation of this Local Law in the Code of the Town of Minden.	
Town of Minden Local Law No. 1 of 1986 providing for Electrical Standards – Chapter 45	
Section 45-2 National Electrical Code See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Town of Minden Ordinances	
Chapter 45 Electrical Standards	
<p>Section 45-3 Electrical Inspection</p> <p>A. The Code Enforcement Officer of the Town of Minden shall be and is hereby authorized to appoint and deputize as agents of the Town of Minden for the purpose of making inspections and reinspections at reasonable times and places, and upon reasonable notice, of all electrical installations regulated and covered by the New York State Uniform Fire Prevention and Building Code, and to approve or disapprove said installations, such persons, agencies or organizations as, in the opinion and discretion of the Code Enforcement Officer, shall be qualified to conduct the same. In no event shall the cost or expense of such inspections or reinspections be a charge against the Town of Minden.</p> <p>B. It shall be the duty of such person, organization or agency duly appointed and deputized as provided in this chapter to report in writing to the Code Enforcement Officer of the Town of Minden all violations of or deviations from the provisions of the National Electrical Code, and of all local laws and the Building Code insofar as any of the same shall apply to electrical wiring, systems and equipment covered by this chapter. Such deputized inspector shall make inspections of electrical installations in and on properties in the Town of Minden upon the written request of the Town of Minden Code Enforcement Officer.</p> <p>C. It shall be the duty of such appointed and deputized electrical inspector to issue a certificate of compliance only when electrical installations and equipment are found to be in conformity with the provisions of the National Electrical Code and this chapter. He shall direct that a copy of the certificate of compliance or the official denial thereof be sent to the Code Enforcement Officer of the Town of Minden.</p>	Provisions noted.
<p>Section 45-4 Violations</p> <p>A. Any installation or alteration of an electrical system or electrical wiring that is covered and regulated by the provisions of the New York State Uniform Fire Prevention and Building Code, the National Electrical Code or a local law of the Town of Minden without the</p>	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this

Substantive Requirement	Plans to Adhere to Requirement
<p>issuance of a certificate of compliance as hereinabove provided shall be a violation of this chapter.</p> <p>B. Any person, firm or corporation who or which shall violate the provisions of this chapter shall be subject to all penalties and remedies provided by Article 18 of the Executive Law of the State of New York as the same pertains to violations of the New York Uniform Fire Prevention and Building Code.</p>	Section.
Chapter 50 (Fire Prevention and Building Construction)	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Chapter 75 (Streets and Sidewalks), Article II, Road Preservation	
<p>Section 75-8 Applicability</p> <p>This article shall apply to all Town roads and bridges, paved or unpaved, road shoulders, bridges, guard rails, driveways, easements, rights-of-way, culverts, sluice or drainage pipes, ditches, sidewalks, signs, or any utilities or improvements therein, thereon, or thereunder including seasonal and limited-use roads designated by the Town of Minden, open to travel by the public, and repaired and maintained by the Town of Minden.</p>	Provision noted.
<p>Section 75-11 Activities Requiring Road Preservation Vehicle Permit</p> <p>A. Any high-frequency or high-impact truck traffic use on Town roads as defined above shall require a written road preservation vehicle permit pursuant to this article prior to commencing use of any Town road. In the event that high-frequency or high-impact truck traffic uses Town roads without the required valid permit, the Highway Superintendent, any law enforcement officer, or code enforcement officer, has the authority to deny access to the roads.</p> <p>B. When related to high-frequency or high-impact truck traffic, no temporary or permanent altering, installing, constructing, modifying, filling, obstructing, or relocating any pavement, bridge, ditch, ditching, drainage flow, culvert, sluice or drainage pipe located on a Town road or within any Town road right-of-way shall take place until a valid road preservation vehicle permit has been issued.</p> <p>C. This article shall apply, and a road preservation vehicle permit shall be required, for all high-frequency or high-impact truck traffic even if the origin site or locale and/or the destination are located outside the Town of Minden so long as travel to and from the origin site and the destination is required over a Town road within the Town of Minden.</p> <p>D. When high-impact or high-frequency truck traffic is proposing to use Town roads to travel to more than one parcel or lot in the Town of Minden, or to travel through the Town on Town roads to access parcels outside the Town of Minden, a separate application for road</p>	Provision noted. The Applicant has requested the Siting Board authorize the Town to implement road preservation laws.

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<p>preservation vehicle permit shall be made for each parcel, and for each road being used within the Town.</p> <p>E. All high-impact or high-frequency truck traffic utilizing seismic testing shall also require a road preservation vehicle permit.</p>	
<p>Section 75-14 Application</p> <p>See attachment for detailed provisions.</p>	<p>Provisions noted.</p>
<p>Section 75-16 Highway Permit Bond/Maintenance Bond</p> <p>A. Bonds. If the Highway Superintendent determines that a bond is required, the bond must be paid by the applicant to the Town of Minden and remitted to the Town Clerk prior to the initiation of road uses. At such time, if ever, said highway permit bond, maintenance bond, or a comparable blanket bond is expended:</p> <ol style="list-style-type: none"> 1. The permittee or applicant shall replace the same within five days of the receipt of written notice from the Town Clerk; 2. Failing to act on the written notice of instructions, the road preservation vehicle permit shall be subject to revocation. The Original Worksheet will then have to be reviewed by the Highway Superintendent and approved again as the permit. <p>B. The road preservation vehicle permit holder is responsible for all damages done to the roadways, ditches, curbs, culverts, bridges, or other improvements and to public utilities in, under, over and along the roadway related to their traffic activities. Upon written due notice being given by certified U.S. mail, the road use permittee, and at the Town's sole option, the Town, may request the road use permit holder to repair all damages, or the Town may at its option contract with a third party for the necessary repairs.</p> <p>C. All such third-party contracts, involving the expenditure of more than \$10,000 for materials or the expenditure of more than \$20,000 for labor and materials, shall be deemed to be a public works contract, advertised and awarded pursuant to the competitive bidding requirements of General Municipal Law § 103 and the payment of New York State Department of Labor published prevailing wage rates.</p> <p>D. The escrow funds as per § 75-13C of this article may be used when the road preservation vehicle permit is in effect to also cover the reasonable fees charged by engineers, consultants and/or experts hired in accordance with the provisions of this article; reasonable administrative costs and expenses incurred by the Town of Minden in connection with the permitting process and the repair, restoration and preservation of Town roads and other Town property; and reasonable legal fees, accountant's fees, engineer's fees, costs, expenses, disbursements, expert witness fees and</p>	<p>Provision noted. The Applicant has requested the Siting Board authorize the Town to implement road preservation laws.</p>

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<p>other sums expended by the Town in pursuing any rights, remedies or claims to which the Town may be entitled under this article or under applicable provisions of law, as against any permittee who has violated this article, any insurance company, any bonding company, any issuer of a letter of credit, and/or any United States or State of New York agency, board, department, bureau, commission or official.</p> <p>E. In the event that there is any balance remaining in the account as of the date that the Highway Superintendent determines the road preservation vehicle permit has expired and further determines that no damages or injuries have been caused to any Town road or other Town property for which the Town of Minden has not been fully reimbursed, the Town of Minden shall pay the permittee the balance remaining in the escrow account.</p> <p>F. Upon completion of the project, the permittee will apply to the Highway Superintendent for a preliminary bond release. Upon inspection of the work site, as necessary, the Highway Superintendent may approve the release of the bond after a period of one-year completion. If the release is not approved, the Highway Superintendent will specifically document the tasks that must be accomplished in order for the bond to be released. In this case the permittee will remedy the specified problem items and then reapply for a bond release. Final bond release must be approved by the Town Board for repayment of the bond funds.</p>	
<p>Section 75-17 Multiple Permits</p> <p>A. In the event more than one permit is in effect at any time for any given road or road section, the Highway Superintendent may, at his discretion, limit the number of trucks allowed under each permit (see § 75-10, Definitions).</p> <p>B. In the event damage results from multiple uses, the Highway Superintendent will make a reasonable allocation of responsibility to and cause repairs to be funded proportionately from each permittee.</p>	<p>Provision noted. The Applicant has requested the Siting Board authorize the Town to implement road preservation laws.</p>
<p>Section 75-18 Injunctions</p> <p>The Town is authorized to go to the New York State Supreme Court to seek an injunction against any permittee who defies either a permit suspension or revocation.</p>	<p>Provision noted. The Applicant has requested the Siting Board authorize the Town to implement road preservation laws.</p>
<p>Chapter 77 (Subdivision of Land), Article I, General Provisions</p>	
<p>See attachment for detailed provisions.</p>	<p>These provisions do not apply to the Facility.</p>
<p>Chapter 77 (Subdivision of Land), Article III, Review and Approval Procedure</p>	
<p>See attachment for detailed provisions.</p>	<p>These provisions do not apply to the Facility.</p>

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Chapter 77 (Subdivision of Land), Article IV, Documents to be Submitted	
See attachment for detailed provisions.	These provisions do not apply to the Facility.
Chapter 77 (Subdivision of Land), Article V, Design Standards and Required Improvements	
See attachment for detailed provisions.	These provisions do not apply to the Facility.
Chapter 77 (Subdivision of Land), Article VI, Financial Guaranties for Public Improvements	
See attachment for detailed provisions.	These provisions do not apply to the Facility.
Chapter 77 (Subdivision of Land), Article VII, Miscellaneous Provisions	
See attachment for detailed provisions.	These provisions do not apply to the Facility.
Chapter 90 (Zoning), Article III, Districts and Boundaries	
<p>Section 90-6. Establishment of districts.</p> <p>A. For the purpose of this chapter, the Town of Minden is divided into the following types of classes of districts:</p> <ol style="list-style-type: none"> 1. R-1 Residential. 2. A Agricultural. 3. C-1 Commercial. 4. Planned Development District. <p>B. Said districts are bounded and defined as shown on a map entitled "Town of Minden Zoning Map," hereinafter called the "Zoning Map," adopted by the Town Board and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.</p> <p>Section 90-7. Interpretation of district boundaries.</p> <p>Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:</p> <ol style="list-style-type: none"> A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries. B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. C. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line. D. Where the boundary of a district follows a stream or other body of 	<p>Provision noted.</p>

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<p>water, said boundary line shall be deemed to be the center line of such stream or body of water unless otherwise indicated.</p> <p>E. Where the district boundary lines are indicated to be approximately parallel to a street or highway, they will be considered to be 500 feet from the nearest street or highway line and parallel to it, or along the back line of properties of record fronting on said street or highway, whichever line is closer to the street at the time this chapter becomes effective, unless otherwise noted.</p>	
Chapter 90 (Zoning), Article IV, Use Regulations	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Chapter 90 (Zoning), Article V, Area and Height Regulations Lots, Yards and Buildings	
<p>Section 90-13 Regulations in Schedule A</p> <p>A. Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Schedule A and in the additional regulations of Article V, VI and supplementary regulations of Article VIII. Schedule A accompanies and is hereby made a part of this chapter.</p> <p>B. Clustering. It is the policy of the Town of Minden to preserve its open space and encourage development that is compatible with the existing character of the town. Accordingly, the Planning Board may vary the dimensional requirements specified in Schedule A and in Article V and supplementary regulations of Article VIII during the subdivision review process, provided that it issues a written explanation of the reasons for such variation.</p>	These requirements are supplanted by the provisions included in Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24.
<p>Section 90-14 Area Regulations</p> <p>A. Lots of less than required dimensions.</p> <ol style="list-style-type: none"> 1. Any single lot or parcel of land which was of record at the time of adoption of this chapter, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted principal use. 2. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use. <p>B. Reduction of lot area. The minimum yards and open spaces, including lot area per family, required by this chapter shall not be encroached upon nor considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this chapter.</p> <p>C. Corner lots. On a corner lot in any district where a front yard is</p>	These requirements are supplanted by the provisions included in Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24.

Substantive Requirement	Plans to Adhere to Requirement
<p>required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a permit. The Board of Appeals shall determine the yards and building width of a corner lot facing an intersecting street, and of record at the time of the passage of this chapter, if the yard requirements would result in a residential structure less than 24 feet wide.</p> <p>D. Visibility at street corners. On a corner lot in any district where a front yard is required, no fence, hedge, wall or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines. Intersections with county or state road shall be in accordance with corresponding transportation department regulations and restrictions imposed by this chapter.</p> <p>E. Front yard exceptions. The minimum front yard of all principal buildings and structures hereafter constructed within a Residential District shall conform with Schedule A; and in addition shall be not less than the average front yard of all principal buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within the three-hundred-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.</p> <p>F. Transition yard requirements.</p> <ol style="list-style-type: none"> 1. Where two districts abut on the same street between two intersecting streets, and the front yard requirements of one district area than those of the other district, there shall be provided for: buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to the average of the required depth in the two districts. 2. Where the side or rear yard of a lot in a Residential District abuts a side or rear yard of a lot in a Commercial District, there shall be provided along such abutting line or lines in the Commercial District a side or rear yard equal in depth to that required in the more restricted district; and in addition, a planting buffer at least 10 feet wide, having evergreen vegetative screening and/or opaque fencing at least eight feet high, may be required by the Town Planning Board in an easement in any Commercial District. <p>G. Overlay District boundaries. Where Overlay District boundaries are based upon natural features such as steep slopes, contour lines, elevations, soil types or ecological communities, such boundaries may be more precisely established through field</p>	

Substantive Requirement	Plans to Adhere to Requirement
<p>investigation by a qualified professional. In all other cases, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.</p> <p>H. Projecting architectural features, terraces, porches, fire escapes.</p> <ol style="list-style-type: none"> 1. The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than two feet into any required yard. 2. A paved terrace shall not be considered as part of a building in the determination of yard size or lot coverage, provided that such terrace is without a roof and without walls, parapets or other form of enclosure exceeding six feet in height. 3. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches, or porches open at the side but roofed, shall be considered a part of the building. 4. An open fire escape may extend into any required yard no more than four feet six inches, provided such fire escape shall not be closer than four feet at any point to any lot line. 5. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six feet. <p>I. Walls, fences and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by this chapter, provided that in any Residential District such fence, wall or hedge shall be no closer to any front, side or rear lot line than two feet, and shall comply with visibility at street corners as provided in this article.</p>	
<p>Section 90-15 Height Regulations</p> <p>A. Chimneys, spires, etc. The height limitations of this chapter shall not apply to belfries, church spires, cupolas and domes which are not used for 'human occupancy; nor to chimneys, ventilators, skylights, water tanks or other storage tanks/silos and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features, however, shall be erected only to such 'height as is necessary to accomplish the purpose for which they are intended, and are subject to Planning Board review and approval. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.</p>	<p>These requirements are supplanted by the provisions included in Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>B. On through lots. On through lots 120 feet or less in depth, the height, of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.</p>	
Chapter 90 (Zoning), Article VI, Preservation Overlay Districts	
See attachment for detailed provisions.	The Facility is designed to adhere to the substantive requirements of this Section.
Chapter 90 (Zoning), Article VII, Site Plan Approval and Special Permits	
See attachment for detailed provisions.	These requirements are procedural rather than substantive and are therefore supplanted by Article 10. The Facility is otherwise designed to adhere to the substantive requirements of this Section.
Chapter 90 (Zoning), Article VIII, Supplementary Regulations	
<p>Section 90-30 General Land use Performance Standards</p> <p>In any district, the following performance standards for all land uses shall apply, subject to the limitations on the regulation of agricultural uses contained in Article I, §§ 90-2 and 90-3:</p> <p>A. No offensive or objectionable vibration, glare or odor shall be noticeable at or beyond the property line, and no building materials, junk, leaves or other waste materials shall be deposited within 10 feet of a property line.</p> <p>B. No activity shall create a safety or health hazard, by reason of fire, explosion, radiation or other such cause, to persons or property</p> <p>C. There shall be no discharge of liquid or solid waste or of any other materials in a manner that may contaminate surface water or groundwater.</p> <p>D. There shall be no storage of any material either indoors or outdoors that endangers public health and safety or the natural environment.</p> <p>E. Emission into the ambient air of smoke, dust, gases or other material which can cause damage to the health of persons, animals, plants or damage to property is prohibited.</p> <p>F. Only one permitted principal use or special permitted use is allowed per lot. This § 90-28F shall not be applicable to a mobile manufactured home as part of a farm operation.</p>	<p>Provisions noted. The Facility is designed to adhere to the substantive requirements of this Section.</p> <p>Regarding glare, the Applicant conducted a glare study, which is described in the introduction of Exhibit 31.</p>
Section 90-31 Personal Wireless Service Facilities	The Facility is designed to adhere

Substantive Requirement	Plans to Adhere to Requirement
See attachment for detailed provisions.	to the substantive requirements of this Section
<p>Section 90-35 Accessory Buildings</p> <p>A. Number. On any lot intended or used primarily for residential purposes, an accessory building, such as private garage for use in connection with the principal dwelling, is permitted.</p> <p>B. Height. Maximum height of accessory buildings shall be 25 feet, except that there shall be no height limitation on barns, silos and other farm structures.</p> <p>C. Location.</p> <ol style="list-style-type: none"> 1. Accessory private garage buildings in Residential Districts which are not attached to a principal building may be erected within the rear yard accordance with the following requirements: <ol style="list-style-type: none"> a. Rear yard: five feet from side or rear property line, except when abutting an alley, then 10 feet. b. Side yard. Street side of corner lot: same as for principal building. c. Not closer to a principal or accessory building than 10 feet. 2. In any district, accessory buildings other than private garages shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet. <p>D. Attached accessory building in Residential District. When an accessory building is attached Wh attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.</p> <p>E. Maximum lot coverage is to include all principal and accessory structures.</p>	Provisions noted. The O&M Building is designed to adhere to the substantive requirements of this Section.
<p>Section 90-38 Signs</p> <p>See attachment for detailed provisions.</p>	The Facility is designed to adhere to the substantive requirements of this Section.
<p>Section 90-40 Landscaping Requirements</p> <p>A. Where any permitted nonresidential land use, multiple-family development, mobile manufactured home park, etc., abuts an existing residential parcel or vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in the front, side and/or rear yard which adjoin these uses.</p> <p>B. Required landscaping shall be installed and maintained in a</p>	These requirements are supplanted by the provisions included in Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24.

Substantive Requirement	Plans to Adhere to Requirement
<p>healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover. In any case, all such landscaping shall be a minimum of four feet in height.</p>	
<p>Section 90-46 Exterior Lighting</p> <p>In no case shall any exterior lighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot or cause excessive illumination of adjacent lots.</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>
<p>Section 90-49 Public Utility and Facilities</p> <p>Public utility substations and similar structures shall comply with the following:</p> <ul style="list-style-type: none"> A. Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards. B. Landscaped area at least 20 feet wide shall be maintained in front, side and rear yards. C. There shall be no equipment visible from surrounding property. D. Utility poles and attendant lines will be allowed, as necessary, in all districts. 	<p>These requirements are supplanted by the provisions included in Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24.</p>
<p>Section 90-51 Sanitary Regulations</p> <p>See attachment for detailed provisions.</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>
<p>Chapter 90 (Zoning), Article IX, Off-Street Parking and Loading</p>	
<p>Section 90-52. Automobile parking facilities</p> <ul style="list-style-type: none"> A. Where one or more motor or other vehicles recurrently parks by reason of the use and occupancy of the premises, there shall be provided on or in convenient connection therewith adequate garage or vehicular parking spaces for the number and in proportion to the size of the vehicles which so park, the minimum to be not less than 180 square feet per automobile, in addition to driveway and backing and turning space. The recurrent parking of any such vehicle shall be evidence of the failure to provide adequate and suitable garage or parking source on or in convenient connection with such premises. B. Parking requirements for certain uses are specified in Schedule B. For uses not specified, the Board of Appeals shall establish parking requirements after recommendation of the Planning Board. C. For any building having more than one use, parking shall be required for each use. <p>Section 90-53. Off-street loading facilities</p>	<p>The Facility is designed to adhere to the substantive requirements of this Section.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>A. Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.</p> <p>B. Loading space requirements for certain uses are specified in Schedule 8.⁶ For uses not specified, the Board of Appeals shall establish loading requirements, after recommendation of the Planning Board.</p> <p>C. Loading requirements apply to each separate occupancy and are exclusive of driveways, aisles and other necessary circulation areas.</p>	
Chapter 90 (Zoning), Article XI, Administration	
<p>Section 90-58 Building Permit</p> <p>A. No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefor has been issued by the Code Enforcement Officer.</p> <p>B. No such permit shall be issued until there has been filed with the Code Enforcement Officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location of the lot of the building or accessory buildings to be erected, relocated or altered and such other information of this chapter. Each application shall state the purpose for which the structure of land is to be used and a general description of the type of construction. A working drawing of any proposed building shall be filed with the application for a building permit.</p> <p>C. The Code Enforcement Officer shall act upon all applications for building permits within # reasonable time not to exceed 10 days, and shall, within such period, issue or refuse to issue such permits. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative, in writing, and shall state the reason for said refusal. The fee for any such permit shall be determined by the Town Board from time to time.</p> <p>D. Permits will not be necessary for minor repairs, painting, plumbing, water wells and corncribs, provided they conform to the present use of the land or buildings, as provided for in this chapter. All swimming pools and new roofs shall require a building permit.</p> <p>E. A building permit shall be issued for a period of one year and may be renewed for two additional years. If the improvements described in the application for a building permit have not been completed within three years from the date that the permit is issued, the owner shall apply to the Zoning Board of Appeals to continue the permit in force.</p> <p>F. No building permit shall be issued for lots in an approved subdivision except as provided' for in the subdivision regulations.</p>	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10.</p>
Section 90-59 Certificate of Occupancy	<p>These requirements are procedural rather than substantive</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>A. No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer. Under such rules as may be established by the Zoning Board of Appeals, a temporary Certificate of Occupancy for not more than 30 days for a part of a building may be issued by the Code Enforcement Officer. For previously existing construction, the Code Enforcement Officer may, on request, issue such certificate if he determines that the use of the building in question meets the requirements of this chapter.</p> <p>B. A Certificate of Occupancy shall be issued only 'if the proposed use and construction of the building or land conforms to. the provisions of this chapter and to the plot plan, purpose and description of which the permit was issued. The Code Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a Certificate of Occupancy has been applied before issuing such certificate. Such inspection shall be made within 10 days from the date of application, Saturday, Sundays and legal holidays excepted.</p> <p>C. The Code Enforcement Officer shall deny .a certificate of occupancy if any violation of the state or county health regulations is discovered. The issuance of a Certificate of Occupancy shall not be construed as a representation by the town that the premises comply with such health regulations, but solely that no violations have been found.</p>	<p>and are therefore supplanted by Article 10.</p>
<p>Section 90-60 Penalties for offenses</p> <p>A. Any person, firm or corporation who or which commits an offense against, disobeys, neglects or refuses to comply with or resist the enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation, punishable by a fine of \$350, or by imprisonment not exceeding 20 days, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.</p> <p>B. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained; or any building, structure or land is used; or any land is divided into lots, blocks or sites in violation of this chapter, the Town Board or the Code Enforcement Officer may institute an action or proceeding in the Minden Town Court or in the Montgomery County Court to prevent such unlawful conduct; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about subject premises. In any such action by the Town Board or the Code Enforcement Officer, any person found to have violated this</p>	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10.</p>

Substantive Requirement	Plans to Adhere to Requirement
chapter shall be liable to the town	
Chapter 90 (Zoning), Article XII, Zoning Board of Appeals	
<p>Section 90-62 Powers and Duties</p> <p>The Zoning Board of Appeals shall have all the powers and duties prescribed as by statute and by this chapter, which are more particularly specified as follows:</p> <p>A. Interpretation. Upon appeal from a decision by an administrative official; to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.</p> <p>B. Appeals for variances. The Zoning Board of Appeals shall hear requests for variances. Not all requests for variances need include a denial from the Zoning Enforcement Officer. New state laws passed in 1993 allow applicants with proposed subdivisions or site plans which lack minimum area, frontage or setback requirements to appeal directly to the Zoning Board of Appeals.</p> <p>C. Area variances.</p> <p>1. Area variances may be granted where setback, frontage, lot size, density or yard requirements of this chapter cannot be reasonably met. In making decisions, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant: In making such determination, the Zoning Board of Appeals shall also consider:</p> <ol style="list-style-type: none"> a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance; b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; c. Whether the requested area variance is substantial; d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. <p>2. The Zoning Board of Appeals, in the granting of area</p>	<p>These requirements are procedural rather than substantive and are therefore supplanted by Article 10. However, the Applicant is requesting the Siting Board to permit the Town of Minden's Zoning Board of Appeals to review and approve the Applicant's variance request to permit the Facility to exceed certain limitations discussed herein.</p>

Substantive Requirement	Plans to Adhere to Requirement
<p>variances, shall grant the minimum variance that it deems necessary and adequate and yet at the same time which will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.</p> <p>D. Use variance. Use variances may be granted by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation. No use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The applicant shall demonstrate to the Zoning Board. of Appeals that:</p> <ol style="list-style-type: none"> 1. Under applicable zoning regulations the applicant is deprived of all. economic use or benefit from the property in question, which deprivation must be' established by competent financial evidence; 2. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district of neighborhood; 3. That the requested use variance; if granted, will not alter the essential charter of the neighborhood; and 4. That the alleged hardship has not been self-created. <p>E. Procedure.</p> <ol style="list-style-type: none"> 1. All applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer. 2. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted. 3. Upon receipt of the completed application, the Zoning Board of Appeals shall: <ol style="list-style-type: none"> a. Schedule a public hearing within 62 days; b. Arrange publication of notice of public hearing in the town's official newspaper; c. Notify the applicant of the date of the public hearing at least. 15 days in advance of such hearing; d. Refer application to the County, Planning Board as required by General Municipal Law § 239m, if required; e. Determine whether a Draft Environmental Impact Statement should be required. 4. The applicant shall notify by certified mail, return receipt required, all landowners within 500 feet of the applicant's parcel. 5. Within 62 days of the close of the public hearing, the Zoning Board of Appeals shall render a decision. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeal's findings and decision must 	

Substantive Requirement	Plans to Adhere to Requirement
<p>be sent to the County Planning Board.</p> <p>6. Every decision of the Zoning Board of Appeals shall be .by resolution, each of which will contain a full record of the findings of the Zoning Board of Appeals in the particular case. Each such resolution shall be filed in the office of the Town Clerk by case number under one or another of the following headings: Interpretations, Use, Variances and Area Variances; together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board of each variance granted under the provisions of this chapter.</p>	

(j) Zoning Designation

The Towns of Minden and Canajoharie have both adopted zoning regulations. A summary of the zoning regulations for each of the Towns in which the Facility is located is included below, including whether the Facility is a permitted or prohibited use in the zoning district where the Facility is proposed to be located.

Town of Canajoharie

The Zoning Law of the Town of Canajoharie establishes seven underlying districts within the Town: (R) Residential District; (A) Agricultural/Rural Residential District; (C) Commercial District; (M) Manufacturing District; (PWSF) Personal Wireless Service Facilities Overlay District; (CE) Critical Environmental Overlay District; (SR) Scenic Resources Overlay District. There are no restrictions on the location of utility-scale solar collector systems within Canajoharie. The Facility will be located entirely within the A District. The substantive criteria for approving a site plan are contained in Article IX of the Zoning Law and closely parallel the factors required to be considered by the Siting Board in its review of the Application. These criteria are set forth below:

- Adequacy of layout and design of vehicular and pedestrian access and circulation including intersections, road widths, pavement surfaces, traffic controls, walkway structures, and overall pedestrian convenience – the Facility is not designed to accommodate routine vehicular or pedestrian traffic.
- Adequacy of layout and design of off-street parking, loading, lighting, signage, and general relationship with proposed and existing structures – Once the Facility is operational, vehicle parking at the Facility will be limited to periods of inspection, repair, or maintenance.
- Adequacy of stormwater and drainage facilities, water supply, and sewage disposal facilities – The Facility will adhere to the best practices and measures outlined in any approved SWPPP with DEC with respect to surface water impacts, but is otherwise not anticipated to cause any impacts to water supply or sewage disposal facilities.

- Adequacy of type and use of trees, shrubbery and other landscape elements for aesthetic, screening or buffering purposes and the relationship with existing trees and vegetation, which shall be incorporated to the maximum possible extent – the Facility screening has been designed to use native shrubs and grasses based on the character of existing vegetation communities within the Facility Site and surrounding parcels and to integrate the Facility into the surrounding landscape to minimize potential visual effects.
- Adequacy of provision of open space and recreational areas, when appropriate – the Facility is not anticipated to impact open space or recreational areas.
- Adequacy of protection of adjacent properties from noise, glare, unsightliness or other objectionable features - The Facility is not anticipated to cause excessive or unreasonable noise, glare, or unsightliness.
- Adequacy of provisions for emergency vehicular zones and fire fighting access – the Applicant coordinated with local emergency response personnel in developing the Application and the Facility is not anticipated to impact emergency vehicle or firefighter access.
- Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, slippage, and/or erosion - The Facility will adhere to the best practices and measures outlined in any approved SWPPP with DEC with respect to surface water impacts.
- For new construction, the layout and location of underground cables, such as electric, telephone, cable T.V., etc. – All collection lines for the Facility will be buried underground.
- Adequacy and appropriateness of legal mechanisms proposed to remove land from future development in order to comply with the Density Standard of this law – the Facility is designed to allow landowners to continue farming operations without the need to convert the land for other developmental uses.

Town of Minden

The Zoning Law of the Town of Minden establishes four underlying districts within the Town: (R-1) Residential; (A) Agricultural; (C-1) Commercial; and a Planned Development District. Utility-scale solar energy systems are allowed with a special use permit and site plan review by the Planning Board only in the Agricultural District. The Facility components in Minden will be located entirely within the Agricultural District. The substantive criteria for granting a special use permit are contained in Article VII of the Zoning Law and closely parallel the factors required to be considered by the Siting Board in its review of the Application. These criteria are set forth below:

- Legal – The Facility has been designed to be generally compatible with all local laws and ordinances.
- Traffic – Although construction of the Facility may result in traffic impacts, most of those impacts will be temporary as they will be limited to movement of personnel, equipment, and supplies during construction of the Facility.

- Parking – Once the Facility is operational, vehicle parking at the Facility will be limited to periods of inspection, repair, or maintenance.
- Public services – The Facility is not anticipated to cause any demands on public services or infrastructure.
- Pollution control – Any waste generated by the Facility will be disposed in accordance with all applicable laws and regulations. Further, the Facility has been designed to limit soil erosion during construction and operation.
- Nuisances – The Facility is not anticipated to cause excessive or unreasonable noise, smoke, vapors, fumes, dust odors, glare, or stormwater runoff.
- Existing vegetation – The Applicant has designed the Facility to avoid impacts to existing vegetation.
- Amenities – The Applicant has designed the landscaping features of the Facility in a manner consistent with existing vegetation in the surrounding area.
- Town character – The Facility is designed to be generally compatible with existing development and the surrounding landscape.