



# **EXCELSIOR ENERGY CENTER**

**Case No. 19-F-0299**

**1001.31 Exhibit 31**

**Local Laws and Ordinances**

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## Appendices

Appendix 31-1 Local Zoning Code

## **Exhibit 31: Local Laws and Ordinances**

This Exhibit will track the requirements of Stipulation 31, dated July 6, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.31. All of the local law provisions discussed herein are contained in Zoning Law of the Town of Byron, a copy of which is attached hereto as Appendix 31-1.

The Project will be located in the Town of Byron, Genesee County, New York. In January of 2020, the Town of Byron enacted a 12-month moratorium on applications or proceedings for application for, or the issuance of approvals, permits and zone changes for the establishment, placement, construction, enlargement or erection of solar facilities within the Town.

The Town of Byron is currently working to draft and finalize local laws pertaining to solar energy systems and battery storage systems. As of the filing of this Application, the Town of Byron Solar Energy Local Law No. 2 of 2020 has not yet been finalized. Additionally, a draft of the Town's local law regarding battery storage systems has been drafted but has not been finalized. Therefore, the procedural and substantive requirements described below are based upon both the Town's current zoning law of 2013.

The Applicant has been implementing the Public Involvement Program (PIP) Plan for the Project, as described in Exhibit 2. The Applicant has consulted with the Town of Byron, Genesee County, landowners, and others as part of PIP outreach activities. The Project's PIP Meeting Log, which documents the Applicant's outreach to date, is included as Appendix 2-4. Outreach to the municipal stakeholders has included presentations at town board meetings, open houses, and participation in community organized meetings to introduce the Applicant and the Project to the community. Coordination included the Applicant providing Project-specific information to the municipality, as well as consulting and responding to comments from agency stakeholders, such as the USFWS and NYSDAM, among others. The Applicant is also working with the Genesee County Economic Development Center (GCEDC) (Steve Hyde), the Town of Byron (Supervisor Peter Yasses), and the Byron-Bergen Central School District (Superintendent Mickey Edwards) with the intention of executing a Payment in Lieu of Taxes (PILOT) agreement prior to construction of the Project.

Coordination with the Town of Byron regarding applicable substantive and procedural requirements for the Project has been performed in accordance with the Article 10 requirements.

Based on a review of the local laws and coordination with Project stakeholders, the results of the Applicant's assessment of local procedural and substantive laws, and their applicability to the Project, are described in the following sections.

**31(a) Local Procedural Requirements Applicable to Construction/Operation of the Project Supplanted by Article 10**

The following section contains a list of local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the construction and operation of the Project that are of a procedural nature for the Town of Byron. These local procedural requirements are supplanted by PSL Article 10 unless the Siting Board expressly authorizes the exercise of the procedural requirement by the local municipality or agency.

Zoning Law of the Town of Byron, see Appendix 31-1

- Article III: Administration and Enforcement; Section 3.03 - Issuance of Permits and Certificates
- Article III: Administration and Enforcement; Section 3.04 - Application for a Zoning Permit
- Article III: Administration and Enforcement; Section 3.05 - Site Plan Review and Approval
- Article III: Administration and Enforcement; Section 3.06 - Fees
- Article IV: Board of Appeals; Section 4.03 - Variance and Appeals Procedure
- Article VI: General Provisions Applicable to All Districts; Section 6.05(o) - Regulations Applicable to All Districts (requirement for submission of a Storm Water Drainage Plan)
- Article IX: Regulations Governing Special Permit; Section 9.01(a)(ii) - General District Regulations (requirement for site plan review by Planning Board)
- Article IX: Regulations Governing Special Permit; Section 9.02(a)(i) – Agricultural District (requirement for site plan review by Planning Board)
- Article X: Supplementary Regulations; Section 10.06 – Access Control (requirement for site plan review by Planning Board)
- Article XI: Regulations Governing Special Permit; Section 11.15(a) - Solar Energy Systems

### **31(b) Local Procedural Requirements Requested to be Expressly Authorized by the Board**

Except with respect to the New York State Uniform Fire Prevention and Building Code, as explained below, the Applicant does not request the Siting Board to authorize a municipality to implement any local procedural requirements.

### **31(c) Local Agency Review and Approval of Compliance with Building Codes**

The Town of Byron has adopted and incorporated the New York State Uniform Fire Prevention and Building Code for administration into its local electric, plumbing and building codes; therefore the Applicant may make a request to the Siting Board during the Article 10 proceeding pursuant to subdivision (b) of this section that the Siting Board expressly authorize the exercise of the electric, plumbing, and building permit application, inspection, and certification processes by the Town of Byron.

The Code Enforcement Officer for the Town of Byron is responsible for reviewing and approving building plans, inspecting construction work, and certifying compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing, or building code. If necessary, the Code Enforcement Officer can hire consultants to assist with the review and approval. To the extent the Applicant requests the Siting Board to make the aforementioned authorization to the Town, the Applicant is willing to fund those consultations, to the extent such fees are not paid for from the fund for municipal and local party intervenors. Alternatively, the Applicant may request to submit for review the building plans to an entity qualified by the NYS Department of State, in order to obtain compliance certified with the NYS Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of NYS, and the substantive provisions of any applicable local electrical, plumbing, or building code. Said demonstration would be filed with the Secretary or as a compliance filing with the Siting Board.

### **31(d) Substantive Requirements**

This section identifies the local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the construction or operation of the proposed Project that are of a substantive nature. The dimensional requirements under the current ordinance are presented in Table 31-1. The text of these substantive requirements and the Project's compliance with them are presented in Table 31-2 below.

Town of Byron Zoning Law, 2013 and amended in 2016

- Article VI: General Provisions Applicable to All Districts; Section 6.04 - Preservation of Natural Features
- Article VI: General Provisions Applicable to All Districts; Section 6.05 - Regulations Applicable to All Districts
- Article VII: Non-Conforming Uses; Section 7.01 - Continuance
- Article X: Supplementary Regulations; Section 10.04 Sign and Billboard Regulations
- Article XI: Regulations Governing Special Permit; Section 11.15 (b) - Solar Energy Systems in R-1 District
- Article XI: Regulations Governing Special Permit; Section 11.15 (c) - Solar Energy Systems Setback Requirements

**Table 31-1. Town of Byron Zoning Dimensional Requirements Summary for Non-Residential Uses - Town of Byron Zoning Law, 2013**

Dimensions	Dimensional Requirements			Provided
	A-R District	R-1 District	C-2 District	
Minimum Frontage	200 Feet	250 Feet	250 Feet	268 Feet
Minimum Depth	250 Feet	300 Feet	300 Feet	224 Feet*
Minimum Front Yard Setback for Solar Energy Systems (must be behind the principle building front setback requirement of underlying zoning district)	50 Feet	50 Feet	60 Feet	200 Feet
Minimum Side & Rear Yard Setback for Solar Energy Systems (1 ½ times the height of the Solar Energy Structure)	19.5 Feet	19.5 Feet	19.5 Feet	200 Feet for A-R zones, 100 Feet for R-1 and C-2
% Maximum Lot Coverage	30	30	30	2
Maximum Height	35 Feet	35 Feet	35 Feet	8 Feet – fixed 13 Feet – tracker
Maximum Fence Height	N/A	6 Feet	8 Feet	7 Feet**

\*Existing Non-Conformity

\*\*Denotes a waiver is requested from the Siting Board

### **31(e) Local Substantive Requirements Applicant Requests the Siting Board Not Apply**

The Project is designed and will operate in compliance with applicable substantive local laws and regulations with the exception of two substantive requirements of the existing Town of Byron zoning ordinance:

- Fence Height in R-1 District (6.05(I)(i) and (iii)) – No fence in a R-1 District shall be erected, altered, or reconstructed to a height exceeding three feet above ground level when located within 25 feet of the street right-of-way line. Beyond 25 feet, fences may be up to six feet in height. No fence in a Commercial (C-2) or Industrial District (I-1) shall exceed three feet in height in front yards.
- Solar Energy Systems within R-1 District (11.15(b)) – In a Residential (R-1) District, such Solar Energy System shall be permitted only when attached to the principal building on a lot.

The Applicant is requesting that the Siting Board elect not to apply these two substantive requirements as they are unreasonably burdensome in the view of existing technology, as they would prevent the Project from being built, and that the needs of consumers for the Project outweigh any adverse impacts from electing not to apply both provisions to the Project.

The land area making up the Project Area is particularly well-suited for development of a solar energy system due to its location directly adjacent to existing electric transmission infrastructure with available capacity and the availability of large open space. As to the needs of consumers, Excelsior Energy Center promotes the goals of the Climate Leadership and Community Protection Act (CL&CPA), the Clean Energy Standard (CES), and the most recent State Energy Plan (SEP). Moreover, Excelsior Energy Center has executed a contract with NYSERDA to sell the renewable energy attributes generated by the Project, in furtherance of the aforementioned CL&CPA, CES, and SEP. By adding 280 MW of clean, renewable, solar power into the New York State energy market, the Project helps NYS achieve its targets of 70% renewable generation by 2030, zero emissions from the statewide electrical demand system by 2040, an 85% reduction in greenhouse gas emissions by 2050, and the operation of 6 GWs of solar generation by 2025.

With the exception of those provisions identified above, the Applicant has determined that none of the remaining local substantive requirements are unreasonably burdensome in terms of

existing technological, cost/economics, or consumer needs. Therefore, there are no additional substantive requirements which the Applicant is requesting that the Siting Board elect not to apply based upon the current local laws.

**Prohibition of Ground-mounted Solar Energy Systems within R-1 District (§11.15(b)).**

**Statement of Justification:**

The Applicant requests that the Siting Board elect not to apply this restriction. The Project Area includes approximately 231 acres of R-1 zoned land. Through careful siting, while also balancing the constraints identified in Exhibit 9 and shown on Figure 9-1, the Project was able to limit the siting of Project Components within the R-1 zoning district to 16.45 acres. This approximately 16 acres of land within the R-1 zoning district is necessary for the Project and particularly well-suited for the siting of solar arrays as the two parcels within which they will be located are immediately adjacent to the existing NYPA electric transmission right-of-way. Additionally, these two parcels are located immediately adjacent to the A-R zoning district in which solar is a permitted use. Furthermore, this particular land area within the R-1 zoning district is located a significant distance from any adjacent residences as the nearest distance from the arrays proposed within the R-1 zoning district to an adjacent residence being approximately 379 feet. Allowing the siting of arrays within this zone provides flexibility to propose greater setbacks from adjacent residences in other portions of the Project Area.

An area of at least approximately 1,650 acres is required to site the number of solar panels and the supporting components of the Project necessary to reach this generating capacity. Prohibiting development of the Project Area in the R-1 District (approximately 231 acres of the Project Area), therefore, imposes a technological restriction on the Project related to necessary facility component bulk, making compliance impossible. By prohibiting the construction of the Project within the R-1 District, the potential to impact other sensitive resources or areas that were excluded based on agency, stakeholder, and individual comments increases. In order to meet its obligations under its contract awarded by NYSERDA, the Project must have a generating capacity of 280 MW and 20 MW/4 hr energy storage. As noted below, the Applicant has sited the Project components so as to minimize, to the maximum extent practicable, environmental impacts by avoiding certain forested areas, wetlands, agricultural exclusion areas and wildlife habitat, as shown on Figure 9-1. Further, the Project has been designed to provide certain setbacks from parcel boundaries and residential structures. A design change to comply with this interpretation while also meeting the Project's obligation to have a generating



capacity of 280 MW is not feasible within the Project Area, especially when considering other siting factors, such as avoiding and/or minimizing environmental impacts. Because of the necessary facility component bulk for the Project, this interpretation would render the Project impossible to build within the Project Area in view of existing technology

Thus, pursuant to 16 NYCRR § 1001.31(h)(1), the Applicant requests that the Siting Board refuse to apply this local governmental restriction because it is technologically impossible, impracticable, and unreasonable for all necessary Project components to be installed if the Project were required to comply with this restriction.

In addition, the economic benefits to the community and the GHG emissions reductions outweigh the minimal impacts on the community that would result from refusing to apply this provision. Therefore, this interpretation is unreasonably burdensome in view of existing technology and the needs of consumers, and should not be applied.

**Fence Height in R-1 District shall not exceed 6 feet and in the front yard of a C-2 or I-1 District shall not exceed three feet (Town of Byron Zoning Law, 2013). Statement of Justification:**

Pursuant to the National Electrical Code (NEC), the Project components must be enclosed by at least a 7 foot fence for public safety and to deter access to outdoor electrical equipment by those without appropriate qualifications. This provision of the existing Byron Zoning Law, however, restricts fence height in the R-1 District to a maximum of 6 feet and restricts fence height in the C-2 and I-1 District to a maximum of 3 feet in the front yard.

As a result, pursuant to 16 NYCRR § 1001.31(h)(1), the Applicant requests that the Siting Board refuse to apply this local governmental restriction because it is technologically impossible for the Project to be installed in compliance with the NEC if the Project were required to comply with this restriction.

**31(f) Procedural Requirements Applicable to Interconnections in Public Rights of Way**

The Applicant has determined that there are no procedural requirements in local laws or regulations related to the interconnection or use of water, sewer, or telecommunication lines that are applicable to the Project.

**31(g) Substantive Requirements Applicable to Interconnections in Public Rights of Way**

The Applicant has determined that there are no substantive requirements in the local laws or regulations related to the interconnection or use of water, sewer, or telecommunication lines that are applicable to the Project.

**31(h) Requirements Applicable to Interconnections in Public Rights of Way that the Applicant Requests the Siting Board Not Apply**

As there are no procedural or substantive requirements related to the interconnection or use of water, sewer, or telecommunication lines as identified above in Sections 31(f) and 31(g), there are no requirements which the Applicant is requesting that the Siting Board elect not to apply.

**31(i) List of Applicable Local Substantive Requirements and Compliance Assessment**

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

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

Local Requirement	Project Compliance
<b>Town of Byron Local Laws</b>	
<b>Zoning Law of the Town of Byron (2013 and amended in 2016)</b>	
<p><b>Article VI, Section 6.04 – Preservation of Natural Features</b></p> <p>(a) No structure shall be built within fifty (50) feet of the centerline of the bed of a stream carrying water on average six (6) months of the year, except for:</p> <ul style="list-style-type: none"><li>(i) Public bridges, water works, and other municipal or utility facilities.</li><li>(ii) Such private bridges, fords, drainage conduits, embankments, and similar structures as are necessary to permit access to a lot or portion of thereof or as are incidental to a lawful use of a lot, provided that structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.</li></ul>	<p>The Project will comply with the substantive standards as identified in this Section.</p>

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

Local Requirement	Project Compliance
<ul style="list-style-type: none"> <li>(b) No person shall strip, excavate, or otherwise remove topsoil for sale or other use other than on the premises from which it was excavated or pursuant to a permit issued in accord with Section 1102 of this Local Law</li> <li>(c) Natural features shall be preserved whenever possible.</li> </ul>	
<p><b>Article VI: General Provisions Applicable to All Districts; Section 6.05: Regulations Applicable to All Districts</b></p> <ul style="list-style-type: none"> <li>(a) One Principle Building and Use per Lot- There shall not be more than one (1) principal use on any lot in the Agricultural (A) Agricultural-Residential (A-R), and Residential (R-1) districts except as provided for in the following: <ul style="list-style-type: none"> <li>(i) An approved multifamily dwelling project,</li> <li>(ii) A single -family dwelling accompanying a non-residential use permitted on a lot in A-R and R-1 Districts,</li> <li>(iii) A single-family dwelling accompanying a non-residential use requiring a Special Use Permit in A-Rand R-1 Districts, if approved by the Planning Board as part of the Special Use Permit application process, provided there is only one use of a commercial nature on the lot.</li> </ul> </li> <li>(b) Every principle lot shall have direct access to a public street improved to meet Town requirements.</li> <li>(e) Visibility at Intersections-On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height, shall be erected, placed or maintained within the triangular area formed by the intersection street lines and a straight line joining said street at points which are fifty (50) feet (except in R-1 and commercial district thirty (30) feet) distance from the point of intersection, measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of road traveled-way. This paragraph shall not apply to existing trees, provided no branches are closer than six (6) feet to the ground.</li> </ul>	<p>The Project will comply with the substantive standards as identified in this Section, with the exception of the fencing height requirement (l)(i) and (l)(iii) for which a waiver is request.</p>

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

Local Requirement	Project Compliance
<p>(h) For the purpose of regulating the locations of any building on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zoning district in which said corner lot or through lot is located.</p> <p>(l) Fences erected in the Town shall adhere to the following standards:</p> <ul style="list-style-type: none"> <li>(i) No fence in a Residential District (R-1) shall be erected, altered, or reconstructed to a height exceeding three (3) feet above ground level when located within twenty-five (25) feet of the street right-of-way line. Beyond twenty-five (25) feet, fences may be up to six (6) feet in height.</li> <li>(iii) No fence in a Commercial (C-1 or C-2) or Industrial District (I-1) shall exceed three (3) feet in height in front yards, or eight (8) feet in height in rear and side yards.</li> <li>(iv) No fence shall be erected to encroach on any property line or upon a public right-of-way.</li> </ul>	
<p><b>Article VII: Section 7.01 Continuance</b></p> <p>(a) Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this Local Law may be continued although such use or building does not conform to the regulations specified by this Local Law for the zoning district in which such land or building is located. The following provisions shall, however, apply to all non-conforming uses:</p> <ul style="list-style-type: none"> <li>(i) A non-conforming lot shall not be further reduced in size.</li> <li>(ii) A non-conforming building shall not be enlarged, extended, or increased unless such enlargement would tend to reduce the degree of non-conformance.</li> <li>(iii) A non-conforming use (building or land) shall not be expanded except as may be authorized by Section 702.</li> <li>(iv) A non-conforming use may be changed into a conforming use. When a non-conforming use is changed to conform to</li> </ul>	<p>The Project will comply with the substantive standards as identified in this Section.</p>

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

Local Requirement	Project Compliance
<p>the requirements of this Local Law, the use of the building or tract of land shall not be changed again except in accordance with these regulations.</p>	
<p><b>Article X. Section 10.04 Sign and Billboard Regulations</b></p> <p>(a) General Provisions</p> <ul style="list-style-type: none"> <li>(i) No sign may because if its design, location, state of repair, or condition impair public safety.</li> <li>(ii) No sign shall be located that it impairs the sight line from any street or road to any other street or road or to or from any sidewalk to any street or road.</li> <li>(iii) No sign may be located, lighted or designated in any manner which could cause it to be confused as a traffic light or traffic control device.</li> <li>(iv) No sign shall impede the operation of any door, window, fire escape or any other ingress or egress to any building.</li> <li>(v) Illuminated signs may not shine or reflect light onto or into adjacent property.</li> <li>(vi) Except for emergency vehicles or facilities, flashing, oscillating, or revolving lights are not permitted.</li> <li>(vii) No permit issued pursuant to this Local Law shall authorize the installation of any sign in any State Highway right -of- way.</li> <li>(viii) Off-premises business and/or advertising signs shall not be permitted in any district.</li> </ul> <p>(b) Signs Permitted in all Districts</p> <ul style="list-style-type: none"> <li>(i) Signs designating a Home Occupation shall be permitted on the lot which the Home Occupation is conducted but shall neither exceed nine (9) square feet nor be located closer than ten feet (10) from the highway right-of-way or any property line.</li> <li>(ii) Signs giving directions to public facilities (i.e. fire stations, medical treatment facilities, post offices, ambulance stations, public parking areas, etc.)</li> </ul>	<p>The Project will comply with the substantive standards as identified in this Section.</p>

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

Local Requirement	Project Compliance
<p>(iii) Temporary signs not exceeding nine (9) square feet in the A, AR,R-1 and C-1 Districts nor sixteen (16) square feet in the 1-1 or C-2 District provided:</p> <ol style="list-style-type: none"> <li>1) No such sign shall be installed or displayed more than sixty (60) days prior to the first day of the event, and</li> <li>2) All such signs shall be removed with ten (10) days of the last day of the event.</li> </ol> <p>(c) Non-Conforming Signs</p> <ol style="list-style-type: none"> <li>(i) No such non- conforming signs shall be enlarged, extended, relocated, or altered in any manner and shall be removed in the event the use advertised on the sign is discontinued or changed. Normal maintenance such as painting and replacement of parts shall not be interpreted as violation of this provision.</li> </ol> <p>(d) Signs Permitted in Agricultural, Agricultural-Residential, and Residential Districts</p> <ol style="list-style-type: none"> <li>(i) One (1) on-premise sign identifying a church, public building or other permitted non-commercial use located no closer than ten (10) feet from a property line with a maximum size of eight (8) feet wide x six (6) feet length in area per side. Two (2) off-premises (non-commercial) directional signs located no closer than ten (10) feet from the property line with a maximum size of nine (9) square feet per side.</li> <li>(ii) One (1) on premises sign for uses which have a valid Special Use Permit to operate. Such sign may either be wall mounted with a maximum size of nine (9) square feet, or freestanding with a maximum size of nine (9) square feet per side. Freestanding signs shall be limited in height to 15 feet and not be located within five (5) feet of a property line. The final location/placement of all signs for uses allowed by Special Use Permits in the R-1 and A-R Districts shall</li> </ol>	

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

Local Requirement	Project Compliance
<p>be determined by the Town Planning Board on said Special Use Permit.</p> <p>(e) Signs Permitted in General Commercial and Industrial Districts</p> <p>(i) Freestanding business signs shall be permitted. Such signs shall conform to the following provisions relating to their size and number:</p> <p>1) Each business or industrial use may have one (1) free-standing sign. Such free-standing sign shall have an area of neither more than 25 feet nor be more than twenty-five (25) feet in height and be located not less than ten (10) feet from the property lines. Sign location subject to site plan approval by the Town Planning Board.</p> <p>2) In a shopping center or industrial park there may be one directory sign at any location thereof which shall not exceed five (5) square feet for each business in the shopping center or industrial park provided that no such sign shall exceed thirty (30) square feet in area. No individual free-standing sign shall be allowed in a shopping center.</p> <p>(ii) Off-premise direction signs shall be of such area and in such location as may be determined in the discretion of the Planning Board.</p> <p>(f) Signs Prohibited</p> <p>(i) The following types of signs are prohibited and shall not be permitted, erected, or maintained in any zoning district and the owner thereof shall upon written notice of the Zoning Enforcement Officer forthwith, in the case of immediate danger and in any case within not more than ten (10) days, make sure such sign conform with the provisions of this section or shall remove it. If within ten (10) days the order is not complied with, the Zoning Enforcement</p>	

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

Local Requirement	Project Compliance
<p>Officer may cause said sign to be removed at the expense of the owner.</p> <ol style="list-style-type: none"> <li>1) Any sign which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstruction or detracting from the visibility of any traffic control device on public streets and roads.</li> <li>2) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.</li> <li>3) Signs which make use of words such as "STOP", "LOOK", "DANGER" and other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.</li> <li>4) Any sign which has any visible moving part, for example visible revolving parts or visible mechanical movement of any description (except time and temperature revolving signs as allowed) or other apparent visible movement achieved by electrical, electronic or kinetic means, including intermittent electrical pulsations, or by action of normal wind currents.</li> <li>5) It shall be unlawful to have any sign insecure, unsafe or unlawfully installed, erected or maintained</li> </ol>	
<p><b>Town of Byron – Article XI Regulations Governing Special Permit Section 11.15 Solar Energy Systems:</b></p> <ol style="list-style-type: none"> <li>(b) In a Residential (R-1) District, such Solar Energy System shall be permitted only when attached to the principal building on a lot.</li> <li>(c) Setback requirements for ground mounted solar systems in other than R-1 Districts:</li> </ol>	<p>The Project has requested a waiver from provision (b). The Project will comply with provision (c).</p>



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

Local Requirement	Project Compliance
(i) Front setback [50 feet] must be behind the principle building front setback requirements (see Table I).  Side and rear setbacks must be at least 1.5 times the height of the Solar Energy Structure.	

Twenty-seven new access entrances to the Project are proposed along Byron Batavia Road, Bank Street, Cockram Road, Casewell Road, Starowitz Road, Walkers Corners Road, Townline Road, Ivison Road, Gillette Road, and Transit Road; along with a collection line crossing. The Applicant will consult with the County to determine any approvals required and/or the necessity of entering into a road use agreement. Road use agreements with the Town are also expected to be negotiated and access points and collection line crossings on local roadways may be addressed therein.

**31(j) Zoning**

The entire Project Area is located in the Agricultural-Residential (A-R), Residential (R-1), General Commercial (C-2), Industrial (I-1) zoning districts. Under §11.15(a) of the Town of Byron Zoning Law, ground mounted solar energy systems are permitted in A-R, C-2, and I-1 districts.

According to the current zoning law, solar energy systems are permitted within all zoning districts, except R-1, with approval by the Town’s Planning Board with a Special Use Permit and Site Plan Review. Under the current zoning law, solar is only allowed in an R-1 zone if attached to a principal building. As explained above, the Applicant has requested herein that the Siting Board not apply the R-1 zoning restriction to the Project as it would be unreasonably burdensome with which to comply. The following table provides the current zoning designation of parcels within the Project Area.

**Table 31-3. Zoning of Project Parcels**

Parcel ID	Zoning District
4.-1-11.1	A - R Agricultural - Residential
4.-1-14.2	A - R Agricultural - Residential

**Table 31-3. Zoning of Project Parcels**

<b>Parcel ID</b>	<b>Zoning District</b>
4.-1-27.11	A - R Agricultural - Residential
5.-1-1	A - R Agricultural - Residential
5.-1-96	A - R Agricultural - Residential
5.-2-54.1	A - R Agricultural - Residential
5.-2-58.11	A - R Agricultural - Residential
6.-1-13.111	A - R Agricultural - Residential
6.-1-13.12	A - R Agricultural - Residential
6.-1-14	A - R Agricultural - Residential
6.-1-15.2	A - R Agricultural - Residential
6.-1-16.111	A - R Agricultural - Residential
6.-1-16.112	A - R Agricultural - Residential
6.-1-19.213	A - R Agricultural - Residential
6.-1-20.2	A - R Agricultural - Residential
6.-1-22	A - R Agricultural - Residential
6.-1-25.1	A - R Agricultural - Residential
6.-1-26.1	A - R Agricultural - Residential
6.-1-26.2	A - R Agricultural - Residential
6.-1-28.111	A - R Agricultural - Residential
6.-1-33.111	A - R Agricultural - Residential
6.-1-37.1	A - R Agricultural - Residential
6.-1-37.2	A - R Agricultural - Residential
6.-1-41	A - R Agricultural - Residential
6.-1-42.1	A - R Agricultural - Residential
6.-1-42.2	A - R Agricultural - Residential
6.-1-43.1	A - R Agricultural - Residential
6.-1-44	A - R Agricultural - Residential
6.-1-5.1	A - R Agricultural - Residential
6.-1-52	A - R Agricultural - Residential
6.-1-6	A - R Agricultural - Residential
6.-1-8.21	A - R Agricultural - Residential
7.-1-103.1	A - R Agricultural - Residential
7.-1-111	A - R Agricultural - Residential
7.-1-46.111	R - 1 Residential
7.-1-46.111	C - 2 General Commercial
7.-1-47.11	A - R Agricultural - Residential
7.-1-47.11	R - 1 Residential
7.-1-60.113	A - R Agricultural - Residential
7.-1-65.12	A - R Agricultural - Residential
7.-1-65.12	R - 1 Residential

**Table 31-3. Zoning of Project Parcels**

<b>Parcel ID</b>	<b>Zoning District</b>
7.-1-66.1	A - R Agricultural - Residential
7.-1-66.1	R - 1 Residential
7.-1-73.1	A - R Agricultural - Residential
7.-1-88.11	R - 1 Residential
7.-1-88.11	C - 2 General Commercial
7.-1-86.121	R - 1 Residential
7.-1-92.1	R - 1 Residential
8.-1-1.2	A - R Agricultural - Residential
8.-1-10.2	A - R Agricultural - Residential
8.-1-17.12	A - R Agricultural - Residential
8.-1-19.12	A - R Agricultural - Residential
8.-1-2.2	A - R Agricultural - Residential
8.-1-26.1	A - R Agricultural - Residential
8.-1-28	A - R Agricultural - Residential
8.-1-29	A - R Agricultural - Residential
8.-1-3	A - R Agricultural - Residential
8.-1-38.1	A - R Agricultural - Residential
8.-1-4	A - R Agricultural - Residential
8.-1-5	A - R Agricultural - Residential
9.-1-2.2	A - R Agricultural - Residential
9.-1-6	A - R Agricultural - Residential
9.-1-6	I - 1 Industrial
9.-2-43.1	A - R Agricultural - Residential

**31(k) Town of Byron Applicable Laws, Codes, and Regulations**

The above sections address the Town of Byron zoning ordinance, including applicable solar energy facilities code provisions currently in effect. Applicable laws, codes and regulations have been included as Appendices 31-1 through 31-2.

## References

Town of Byron, Genesee County (2013). "Zoning Law of the Town of Byron". Available at: <http://byronny.com/documents/2013%20Zoning%20Law.pdf>. Accessed March 2020.