

This Regular Meeting of the Brant Town Board was held on Tuesday May 13, 2025, at the Brant Town Hall, located at 1272 Brant North Collins Rd, Brant, New York at 7:00 PM.

PRESENT WERE:

Mark DeCarlo	Supervisor
Mike Muffoletto	Councilman
Linda Giancarlo	Councilwoman
Tish Brady	Councilwoman
Donna Marien	Councilwoman
William Trask Sr.	Town Attorney
Barbara Daniel	Recording Secretary

ALSO, PRESENT AND LEGIBLY SIGNED IN WERE:

Tracy Kaczmarek	Supervisor's Secretary
Debra Ritz	Planning Board Chairman
Mark Slawek	Chief of Police
Chad Kaczmarek	Resident
Lynda Ostrowski	Resident
Patty Friend	Town Historian
Janice Ross	Resident
Diane Czyz	Resident
Jeffrey Souder	Assemblyman DiPietro's Office
Megan Smaldino	Resident
Joe DeCarlo	Assessor
Frank Broughton	ZBA Chairman

The meeting opened at 7:00 PM with the Pledge of Allegiance to the flag.

APPROVE MINUTES of the APRIL 1, 2024 MEETING: Councilwoman Giancarlo motioned to approve the minutes of the April 1, 2025 Regular Town Board meeting, and was seconded by Councilwoman Brady. 5 ayes, 0 nays. **MOTION CARRIED.**

SUPERVISOR'S FINANCIAL REPORT: Councilman Muffoletto motioned to approve the Supervisor's Financial Report, seconded by Councilwoman Marien. 4 ayes, 1 nays (Councilwoman Giancarlo opposed). **MOTION CARRIED.**

TOWN CLERK/TAX COLLECTOR'S FEBRUARY & MARCH 2025 FINANCIAL REPORT: Councilman Muffoletto motioned to approve the Town Clerk's report for February and March 2025, seconded by Supervisor DeCarlo. 5 ayes, 0 nays. **MOTION CARRIED.**

COURT CLERK'S MARCH 2025 FINANCIAL REPORTS FOR KACZMAREK & GIER REGULAR AND BAIL ACCOUNTS: Councilman Muffoletto motioned to approve both Bail and Regular Financial accounts for Justice Kaczmarek's & Justice Gier for March 2025, seconded by Councilwoman Giancarlo. 5 ayes, 0 nays. **MOTION CARRIED.**

POLICE REPORT FOR APRIL 2025: Police Chief Mark Slawek read the April Police Report. He also asked for permission to purchase a new desktop computer under state bid of approximately \$1,100.00. The computer

they are using now is outdated with Windows 7. Supervisor DeCarlo motioned to approve the purchase of the new desktop, seconded by Councilman Muffoletto. 5 ayes, 0 nays. **MOTION CARRIED.**

Supervisor DeCarlo then motioned to approve the police report as read, seconded by Councilwoman Brady. 5 ayes, 0 nays. **MOTION CARRIED.**

HIGHWAY SUPERINTENDENT'S REPORTS: Councilwoman Brady presented the Highway Superintendents April highway report. Supervisor DeCarlo motioned to accept the report as read, seconded by Councilwoman Brady. 5 ayes, 0 nays. **MOTION CARRIED.**

Councilwoman Giancarlo asked the Supervisor to speak with department heads to request they attend the Town Board meetings in case the Board would like to ask questions. Supervisor DeCarlo will speak with them.

Councilwoman Marien objected to the use of "shared Services" language in the Highway report regarding the parks department. She would like that corrected.

TOWN CLERK'S MARCH & APRIL 2025 "ACTIVITY REPORTS" TO THE BOARD: The Town Clerk presented her March and April Town Clerk activity reports to the Board. [clerk's note: the March report had been tabled in April]. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilwoman Marien. 5 ayes, 0 nays. **MOTION CARRIED.**

PLANNING BOARD REPORT: Planning Board chairman Debra Ritz summarized the correspondence sent to the Town Board:

- Letter from Planning Board regarding the project at 1369 Milestrip Rd (reviewed during the April 1 Planning Board meeting)
- Finalized Solar Energy System local law (final review during May 6th Planning Board meeting)

Town Attorney Bill Trask acknowledged the amount of work the Planning Board took on to finish the proposed law and thanked the Planning Board for their efforts. Councilwoman Giancarlo motioned to approve the planning board report as presented, seconded by Councilman Muffoletto. 5 ayes, 0 nays. **MOTION CARRIED.**

ZONING BOARD REPORT: No Report because no meeting was held.

PARK'S & BUILDINGS REPORT: No Report.

TOWN HISTORIAN REPORTS: Town Historian Patty Friend presented her report for the April 19 Historical Meeting. She advised that St. Anthony's Church in Farnham is now closed. The next meeting is May 10th. Supervisor DeCarlo motioned to approve the report as presented, seconded by Councilwoman Giancarlo. 5 ayes, 0 nays. **MOTION CARRIED.**

BRANT FARNHAM SENIORS APRIL & MAY MINUTES: Councilwoman Giancarlo read the minutes of the April 2nd Senior's meeting. Jack Giacchino was the guest speaker. He spoke about the scams occurring lately. He advised those who feel they were scammed to contact www.reportfraud.gov. She then read the May 7th meeting minutes. Supervisor DeCarlo motioned to approve the reports as read, seconded by Councilwoman Brady. 5 ayes, 0 nays. **MOTION CARRIED.**

CODE ENFORCEMENT: Councilwoman Marien read the Code Officer's report for the month of April. Supervisor DeCarlo motioned to accept the report as read, seconded by Councilman Muffoletto. 5 ayes, 0 nays. **MOTION CARRIED.**

Acknowledgment of Visitors, Invited Guests and Presenters: Supervisor DeCarlo recognized Jeffrey Souder, representative for Assemblyman DiPietro’s office. He advised those present to call the Assemblyman’s office at 716-655-0951 if they need assistance.

NEW BUSINESS:

Supervisor DeCarlo presented the following:

The following **RESOLUTION DECLARING LEAD AGENCY STATUS UNDER SEQR** regarding:

**(Application for Special Use Permit and
Site Plan Approval at 10216 Southwestern Blvd., Brant, NY)**

WHEREAS the Town Board of the Town of Brant, Erie County, New York received an application of **Ayush Dhupar and Ironyard Properties, LLC** for a Special Use Permit and site plan approval for vehicle junkyard at **10216 Southwestern Blvd.** in the Town of Brant, and

WHEREAS, the Town Board seeks to commence proceedings pursuant to the requirements of the State Environmental Review Act (“SEQRA”), 6 NYCRR Part 617,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Brant hereby declares itself as “Lead Agency” for the purposes of compliance with SEQRA, 6 NYCRR Part 617 in connection with this project, and it is further

RESOLVED, that the Town Board shall undertake and complete all duties and obligations as “Lead Agency” as required by 6 NYCRR Part 617 and it is further

May 13, 2025

Supervisor DeCarlo motioned to adopt the resolution as presented and was seconded by Councilwoman Brady.

Roll Call was taken:

Supervisor DeCarlo	Aye
Councilwoman Brady	Aye
Councilwoman Giancarlo	Aye
Councilman Muffoletto	Aye
Councilwoman Marien	Aye

MOTION CARRIED. RESOLUTION ADOPTED

Upon adoption of the resolution declaring lead agency for the Special Use Permit at 10216, Supervisor DeCarlo motioned to refer the application to the Planning Board for review. Councilman Muffoletto seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

Supervisor DeCarlo presented the following resolution:

**RESOLUTION OF THE BRANT TOWN BOARD
DECLARING LEAD AGENCY STATUS UNDER SEQR**

**(Application for Special Use Permit and
Site Plan Approval at 1369 Milestrip Road, Brant, NY)**

WHEREAS the Town Board of the Town of Brant, Erie County, New York received an application of **Megan Smaldino and Pro Dock and Door, LLC** for a Special Use Permit and site plan approval for short-term storage of garage doors and ancillary items at an existing structure at **1369 Milestrip Road** in the Town of Brant, and

WHEREAS, the Town Board seeks to commence proceedings pursuant to the requirements of the State Environmental Review Act ("SEQRA"), 6 NYCRR Part 617,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Brant hereby declares itself as "Lead Agency" for the purposes of compliance with SEQRA, 6 NYCRR Part 617 in connection with this project, and it is further

RESOLVED, that the Town Board shall undertake and complete all duties and obligations as "Lead Agency" as required by 6 NYCRR Part 617.

May 13, 2025

Supervisor DeCarlo motioned to adopt the resolution as presented and was seconded by Councilwoman Marien.

Roll Call was taken:

Supervisor DeCarlo	Aye
Councilwoman Marien	Aye
Councilwoman Giancarlo	Aye
Councilman Muffoletto	Aye
Councilwoman Brady	Aye

MOTION CARRIED. RESOLUTION ADOPTED

SET PUBLIC HEARING SMALDINO SPECIAL USE PERMIT APPLICATION: Supervisor DeCarlo then motioned to set the public hearing for the Special Use Permit of **Megan Smaldino and Pro Dock and Door, LLC** for 7:15 Pm June 10th, 2025. Councilwoman Marien seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

SET PUBLIC HEARING FOR ANNUAL SPECIAL USE PERMIT RENEWAL:

Supervisor DeCarlo motion to set the public hearing for the Annual Special Use Permit renewals for 7:30 PM on June 10, 2025. Councilwoman Marien seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

SET PUBLIC HEARING FOR PROPOSED LOCAL LAW #1 OF 2025 (SOLAR ENERGY SYSTEMS LAW): Supervisor DeCarlo motioned to set June 10, 2025 at 7:45 pm for the public hearing to adopt Local Law #1 of 2025 "Solar Energy Systems Law of the Town of Brant." Councilwoman Brady seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

TOWN ATTORNEY THEN READ ALOUD THE FOLLOWING RESOLUTIONS PERTAINING TO THE SOLAR ENERGY SYSTEMS LAW BEING PROPOSED:

**TOWN OF BRANT TOWN BOARD RESOLUTION
TO INTRODUCE THE TOWN OF BRANT**

**PROPOSED LOCAL LAW ENTITLED
“Chapter 161-39-I: Solar Energy Systems”**

WHEREAS, the Town Board of the Town of Brant recognizes that solar energy is a clean, readily available source of energy and intends to accommodate the use of appropriately sited solar energy systems in the Town, and

WHEREAS, an amendment of the Town of Brant’s current solar law may be necessary to allow for the use of solar energy systems while meeting the objectives of the Town and its residents, and

WHEREAS, consideration is warranted of a proposed local law to regulate the siting of solar energy systems in the Town of Brant’s to establish a plan for well-sited solar energy systems in order to protect and promote the health, safety and welfare of the community, and

WHEREAS, Section 20, subsection 4 of New York State’s Municipal Home Rule Law allows for the introduction of a proposed local law by a member of a Town Board, and

WHEREAS, the Town Board of the Town of Brant hereby introduces the proposed “**Chapter 161-39-I: Solar Energy Systems**” a copy of which is attached hereto and made a part hereof, and the Town Clerk is hereby directed to enter said proposed local law into the minutes of this meeting.

Supervisor DeCarlo motioned to adopt the resolution as presented by the Town Attorney. Councilwoman Tish Brady seconded the motion. A roll call vote was taken and resulted as follows:

AYES: 5

NOES: None

Supervisor DeCarlo	aye
Councilwoman Giancarlo	aye
Councilman Muffoletto	aye
Councilwoman Marien	aye
Councilwoman Brady	aye

RESOLUTION ADOPTED

The Town Attorney read aloud the second resolution relating to the proposed Solar Law:

**TOWN OF BRANT TOWN BOARD RESOLUTION
THAT ENACTMENT OF THE PROPOSED LOCAL LAW ENTITLED
“Chapter 161-39-I: Solar Energy Systems”
IS SUBJECT TO SEQRA AND CLASSIFYING CONSIDERATION OF THE PROPOSED LOCAL LAW AS A
TYPE I ACTION UNDER SEQRA**

WHEREAS, on May 13, 2025 the Town Board of the Town of Brant introduced a proposed local law entitled “Chapter 161-39-I: Solar Energy Systems” and

WHEREAS, adoption of the proposed local law would involve a change in allowable uses within at least one district affecting 40 or more acres of the district, and

NOW THEREFORE, the Town Board of the Town of Brant hereby declares its intent to serve as lead agency for purposes of SEQRA review.

AND THEREFORE, the Town Board of the Town of Brant finds that the adoption of the current version of the proposed local law entitled “Chapter 161-39-I: Solar Energy Systems” would qualify as a Type I action under SEQRA because it would involve a change in allowable uses within at least one district affecting 40 or more acres of the district under 6 NYCRR 617.4(b)(2).

AND THEREFORE, the Town Board of the Town of Brant further resolves that the proposed action is classified as a Type I Action under SEQRA.

[CLERK'S NOTE: per the above resolution, the copy of the proposed local law will follow the last solar resolution listed below]

The Town Attorney then presented the fourth and final resolution:

TOWN OF BRANT TOWN BOARD RESOLUTION
TO PREPARE THE WATERFRONT ASSESSMENT FORM FOR
THE TOWN OF BRANT PROPOSED LOCAL LAW ENTITLED
"Chapter 161-39-I: Solar Energy Systems"
AS REQUIRED BY BRANT TOWN CODE §155-6

WHEREAS, the Town Board of the Town of Brant has introduced a proposed local law entitled "**Chapter 161-39-I: Solar Energy Systems**" to amend the current zoning ordinance, and

WHEREAS, on May 13, 2025 the Town Board of the Town of Brant declared itself lead agency for purposes of SEQRA review of the proposed action and completed Part 1 of the Full Environmental Assessment Form, and

WHEREAS, the Town Board of the Town of Brant is required to prepare a waterfront assessment form (WAF) for the proposed action pursuant to Brant Town Code §155-6; and

WHEREAS, special counsel for the Town of Brant has prepared the required WAF as relates to the repeal and replacement of "**Chapter 161-39-I: Solar Energy Systems**"; and

NOW, THEREFORE, the Town Board of the Town of Brant resolves to adopt the WAF prepared by its special counsel and undertake review of the action and determination regarding the action's consistency with the policies of the Town's LWRP.

Supervisor DeCarlo motioned to adopt the resolution. Councilwoman Brady seconded the motion. A roll call vote was taken and resulted as follows:

AYES: 5

NOES: None

Supervisor DeCarlo	aye
Councilwoman Giancarlo	aye
Councilman Muffoletto	aye
Councilwoman Marien	aye
Councilwoman Brady	aye

RESOLUTION ADOPTED

TO FOLLOW IS THE FULL TEXT OF THE PROPOSED LOCAL LAW #1-2025 (SOLAR ENERGY SYSTEMS LAW):

SOLAR ENERGY SYSTEMS

§161-39-I

Adopted Local Law #____-2025

Be it enacted by the Town Board of the Town of Brant, County of Erie, State of New York, that Chapter 161-39-I of the Town of Brant Code is hereby repealed and replaced as follows:

ARTICLE I

Enactment and Intent

§161-39-I(1). Title.

This chapter shall hereafter be known, cited and referred to as the "Solar Energy Systems Law of the Town of Brant."

§161-39-I(2). Purpose and intent.

The Town of Brant Town Board recognizes that solar energy is a clean, readily available source of renewable energy and intends to accommodate the use of appropriately sited solar energy systems in the Town. Understanding that there is growing need to properly site solar energy systems within the boundaries of the Town, this chapter is designed to protect land uses, prime soils and important soil types in the community and protect the health, safety and general welfare of citizens; preserve the overall beauty, nature and character of the Town; and promote effective and efficient use of solar energy resources. Prior to the adoption of this chapter, the Town had no specific procedures to address the use and siting of solar energy systems. Hence, this chapter seeks to:

- a. Provide property owners and business owners/operators with guidance and flexibility in satisfying their energy needs.
- b. Provide an opportunity for the use of alternative sources of energy within the Town of Brant and promote clean energy.
- c. Integrate solar energy systems seamlessly into the Town's neighborhoods and landscapes without diminishing quality of life in these areas.
- d. To maintain the rural character of the Town.
- e. To preserve the agricultural base of land and farm operations, consistent with the Town of Brant Farmland Protection Policy.
- f. To advance state renewable energy policy by promoting community solar development of an appropriate scale and providing substantive standards for large Solar Energy Facilities sited in Brant by the New York State government.
- g. To balance the potential benefit of solar development within the Town against potential negative impacts to citizens, property owners, agricultural resources, local economy and local ecosystem of the Town of Brant.
- h. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems

ARTICLE II

Terminology

§161-39-I(3). Definitions.

AGRICULTURAL DUAL-USE — Also referred to as “dual-use” or “agrivoltaic,” this involves the practice of co-locating solar photovoltaic panels on farmland in such a manner that primary agricultural activities including animal grazing, crop or vegetable production can continue simultaneously on that farmland.

ALTERNATIVE ENERGY SYSTEMS — Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on a site and may be attached to or separated from the principal use.

APPLICANT — The individual/individuals or entity/entities that apply for any federal, state, or local government permit or permission for installation of a Solar Energy System.

ARBORIST — An International Society of Arborists (ISA) certified professional with knowledge of arboriculture.

ARRAY — Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

BATTERY ENERGY STORAGE SYSTEM — One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a standalone twelve-volt car battery or an electric motor vehicle.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) — The incorporation of photovoltaic materials into the physical structure of a building. BIPV technologies include photovoltaic shingles or tiles, photovoltaic laminates and photovoltaic glass. Examples of placement include vertical facades, semitransparent skylights and windows, awnings (including fixed awnings) and roofs.

BUILDING-MOUNTED SYSTEM — A solar energy system that is affixed to the side(s) of a building or other structure, either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on the subject lot, potentially for multiple tenants, through a distribution system that is not available to the public.

CELL — The smallest basic solar electric (photovoltaic) device that can generate electricity when exposed to radiant energy (visible sunlight).

COLLECTIVE SOLAR — Solar installations owned collectively through subdivision homeowner associations or other similar mechanisms. Collective solar installations shall be regulated depending upon generation capacity as defined herein.

COMMUNITY SOLAR PROJECT— Solar Energy Systems that are connected in parallel with a utility distribution system, and with a Facility Area less than or equal to 40 acres, and a nameplate capacity of 5 megawatts AC or less. A Community Solar Project is connected to a medium voltage utility distribution systems between 13 kv and 34.5 kv.

FACILITY AREA — The physical area, measured in both square feet and acres, used for any solar energy system, including the area within fencing, roads, visual screening, support facilities, Solar Energy Equipment, and all other components of a solar energy system facility. The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment. The Facility Area is part of the Project Site.

FARMLAND OF STATEWIDE IMPORTANCE — Soils, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

FARM OPERATION — Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law § 301[11]).

GLARE — The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GLINT — To shine in small bright flashes.

GROUND-MOUNTED SYSTEM — A photovoltaic system mounted on a structure, pole or series of poles that are constructed specifically to support the photovoltaic system, and not physically attached to any structure, that generates electricity for on or off-site consumption.

MINERAL SOIL GROUPS (MSG) 1-4 — Agricultural soil classifications as defined by the New York State Department of Agriculture and Markets. These soils are recognized as having the highest value based on soil productivity and capability.

MODULE — A module is the smallest protected assembly of interconnected photovoltaic cells.

NATIVE PERENNIAL VEGETATION — Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NET METERING AGREEMENT — An agreement with a local electric utility company that allows customers to receive a credit for surplus electricity generated by certain renewable energy systems.

PHOTOVOLTAIC (PV) — Any material or device with the capability to generate electric current or voltage when exposed to electromagnetic radiation (radiant energy), in particular visible light from the sun.

POLLINATOR — Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND — Soils, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

PRIME FARMLAND IF DRAINED — Soils which meet all necessary criteria for Prime Farmland other than depth to water table.

PROJECT SITE — The physical area needed for a Solar Energy System including any setbacks, buffers, fencing, roads, screening, support facilities, and Solar Energy Equipment. The Project Site includes the Facility Area.

QUALIFIED SOLAR INSTALLER — A person who has skills and knowledge related to the construction and operation of photovoltaic solar equipment and installations and has received safety training on the hazards involved therein. This may include persons who are on the list of eligible photovoltaic installers, as maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP).

ROOF-MOUNTED SYSTEM — A solar power system in which solar panels are mounted on top of the structure either as a flush-mounted system or as modules fixed to frames that can be tilted or articulated to achieve an optimal angle for tracking the sun that produces electricity for on or off-site consumption.

SOLAR ACCESS — Land area or space that is open to the sun and clear of overhangs or shade, including structures built on private property that do not infringe on the rights of adjacent properties.

SOLAR ENERGY SYSTEM — A system of components intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, Battery Energy Storage Systems, storage, maintenance and/or other accessory buildings, inverters, fans, combiner boxes, meters, transformers, and all other mechanical structures. The area for the solar energy system is all of the area within the project fence line, as well as, the area covered by all facility components, including but not limited to, access roads, transmission lines, and support buildings. The term also includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows:

- a. Tier 1 Solar Energy Systems include the following:
 - (1)Roof-Mounted Solar Energy Systems; and
 - (2)Building-Integrated Solar Energy Systems.
- b. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 5,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.

- (1) Notwithstanding the above, a solar energy system located on a farm operation, as defined in § 301(11) or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 110% of the farm's needs, or other amount that may be established by resolution of the Brant Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Tier 2 solar energy system.
- (2) A system that does not exceed the production or output limits and otherwise conforms to the requirements of this definition shall not be excluded from designation as a Tier 2 solar energy system as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.
- c. Tier 3 Solar Energy Systems are systems not included in the definition of Tier 1, Tier 2, or Tier 4 Solar Energy Systems, and include but are not limited to all Community Solar Projects. The Facility Area of Tier 3 Solar Energy Systems shall not exceed 40 acres in size and 5 MW AC in nameplate capacity.
- d. Tier 4 Solar Energy Systems include any Solar Energy System with a Facility Area greater than 40 acres in size and/or 25 MW AC generating capacity. Tier IV shall include all proposed solar energy systems subject to state level siting procedures administered by the Office of Renewable Energy Siting, Department of Public Service, or such other agency as may be designated by the State of New York.

STORAGE BATTERY — A device that stores energy and makes it available in an electrical form.

SWPPP — A Stormwater Pollution Prevention Plan associated with a New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity.

TRACKING SYSTEM — A number of photovoltaic modules mounted such that they track the movement of the sun across the sky to maximize energy production, either with a single-axis or dual-axis mechanism.

ARTICLE III

General Provisions

§161-39-I(4). Applicability and General Requirements.

- a. Applicability.

- (1) This Chapter supersedes other requirements of the Town of Brant Zoning Law as pertains to the siting of Solar Energy Systems.
- (2) The requirements of this Local Law shall apply to all applications for Solar Energy Systems to the Town of Brant after the effective date of this Local Law.
- (3) Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- (4) Any modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% shall be subject to review pursuant to this Local Law, excluding general maintenance and repair.
- (5) Any proposed Solar Energy System subject to review by the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, Article 8 of the Public Service Law, or other successor provision, shall be subject to all substantive provisions of this Section and any other applicable laws, codes, and regulations of the Town of Brant, New York; and any other applicable State or Federal laws.
- (6) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”).

b. General Requirements.

- (1) A Building and Zoning Permit shall be required for installation of all Solar Energy Systems.
- (2) All applications shall be reviewed by the Code Enforcement Officer for completeness.
- (3) Issuance of approvals by the Town of Brant shall be subject to review pursuant to the State Environmental Quality Review Act, ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”) and shall be considered Type I Actions.
- (4) Siting of solar installations shall conform to the Town of Brant Comprehensive Plan and the Agricultural and Farmland Protection Plan.
- (5) The Town of Brant Code Enforcement Officer shall notify Brant Volunteer Fire Company No. 1, Village of Farnham Fire Department, and Village of North Collins Fire

Department upon both the filing of an application for and the approval of a solar energy systems of any size within the Town.

(6) Compliance with Building Code.

- i. Building permit applications shall be accompanied by standard drawings of structural components of the solar energy system, including support structures, base and footings. Drawings shall be stamped, and any necessary calculations shall be certified, in writing, by a licensed New York State professional engineer or architect to indicate that the system complies with the current New York State Building Code.
- ii. Where the installation or structural components vary from the standard design or specifications, proposed modifications shall be certified by a licensed New York State professional engineer for compliance with the seismic and structural design provisions of the New York State Building Code

(7) Compliance with Electrical Code.

- i. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the solar energy system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the Electrical Code. The application shall include a statement from a New York State licensed professional engineer or architect indicating that the electrical system conforms to sound engineering practices and complies with the National Electrical Code (NEC). This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
- ii. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State licensed professional engineer for compliance with the requirements of the NEC and sound engineering practices.

(8) Solar Energy Systems requiring site plan review must submit the following information in addition to the requirements set forth in Brant Zoning Code:

- i. Completed Town of Brant Solar Application Form.
- ii. Completed Full Environmental Assessment Form.

- iii. Narrative description of the proposed project, including identification of all approvals sought, existing site conditions, adjacent land uses and owners.
 - iv. Screening and Landscape Plan. This Plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following any applicable rules and standards established by the Town for such elements. Existing on-site vegetation may be used to satisfy all or a portion of the required landscaped screening.
 - v. Lighting Plan.
 - vi. Fencing Plan.
 - vii. Utility Plan.
 - viii. A three-line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) compliant disconnects and over current devices. Interconnection data and a copy of written notification to the utility of the proposed interconnection, including the Coordinated Electric System Interconnection review.
 - ix. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.
 - x. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the solar energy system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
 - xi. Name, address, phone number, and signature of the project applicant, as well as all the property owner(s), demonstrating their consent to the application and the use of the property for the solar energy system.
- (9) All solar panels shall have anti-reflective coating(s) and shall be designed, erected and installed so as to prevent undue glare from intruding on adjoining properties or roadways. If the Solar Energy System creates adverse impacts to the public or adjoining properties, the owner of the system will be required to take measure to mitigate the impact.

- (10) The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection, glare or glint of solar rays onto neighboring properties, businesses, public roads, public parks and other public facilities in excess of that which already exists.
- (11) The Solar Energy System must not materially adverse visual impacts on viewsheds, including, but not limited to any view of or view from Lake Erie.
- (12) All wiring must be designed and installed to comply with the National Electrical Code (NEC).
- (13) All Solar Energy Systems existing on the effective date of this chapter shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction, other than routine maintenance, shall comply fully with the requirements of this chapter.
- (14) No Solar Energy Systems shall hereafter be used, erected, moved, reconstructed, changed or otherwise altered except in conformity with this law.
- (15) All Solar Energy Systems shall be installed by a qualified solar installer, as defined by this chapter.
- (16) All Solar Energy Systems shall be fully accessible to all emergency service vehicles and personnel.
- (17) All Solar Energy Systems shall adhere to all applicable federal, state, county and Town of Brant laws and regulations, including building, plumbing, electrical, and fire codes.
- (18) The fees for a Special Use Permit, Site Plan Review, and Building Permit for a Solar Energy System shall be set from time to time by Town Board Resolution.
- (19) Where a Battery Energy Storage System is sited as part of a Solar Energy System, the provisions of this law shall apply. Where a Battery Energy Storage System is not associated with a Solar Energy System, the provisions of the Battery Energy Storage System Law shall apply.

§161-39-I(5). Permitting Requirements for Tier 1 and Tier 2 Solar Energy Systems.

- a. Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review subject to the following conditions:

(1) Roof-Mounted Solar Energy Systems

i. Design requirements:

- (a) Solar Panels shall not be located closer than three feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.
- (b) Solar Panels on pitched roofs shall be mounted with a minimum distance of 2-inches and maximum distance of 8-inches between the roof surface and the highest edge of the system.
- (c) Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- (d) Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- (e) A minimum three-foot center walkway between arrays is required for safety access.
- (f) Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

- ii. Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

(2) Building-Integrated Solar Energy Systems

i. Design requirements:

- (a) Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door or other architectural feature of the building.
- (b) Solar Panels shall not extend more than three feet from the building facade to which it is affixed.

- ii. Height: The maximum height of a building-integrated solar energy system shall be 18 feet, as measured from the lowest point where the system is affixed to the vertical façade of a building.

(3) The power supply cutoff device for any Tier 1 or Tier 2 Solar Energy System shall be located on the outside of the structures that support such systems, in close proximity to where the power supply enters the facility, along with twenty-four-hour emergency contact information, where it can be easily accessed by emergency personnel.

- b.** Tier 2 Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require site plan review subject to the following conditions:

(1) Design requirements:

- i. All structures and devices used to support solar energy systems shall be nonreflective and painted a subtle or earth tone color.
- ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.
- iii. Tier 2 solar energy systems shall be located in a manner to reasonably avoid and minimize blockage of views from surrounding properties.
- iv. Tier 2 solar energy systems shall be located in a manner to reasonably avoid and minimize shading of adjacent properties.
- v. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

(2) Height: The maximum height of any ground-mounted solar energy system is 20 feet from finished grade.

(3) Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in rear yards in residential districts and shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

(4) Lot Size and Coverage: Tier 2 Solar Energy Systems shall comply with the existing lot size and coverage requirement specified for accessory structures within the underlying zoning district.

§161-39-I(6). Permitting Requirements for Tier 3 and Tier 4 Solar Energy Systems

Tier 3 and 4 Solar Energy Systems are permitted in the Solar Overlay District by Special Use Permit approved by the Town of Brant Town Board, after reviewing recommendations from the Planning Board, and subject to the site plan application requirements, physical limitations on area and other substantive requirements in this chapter and the Brant Town Code. Tier 3 and 4 Solar Energy Systems are a prohibited use outside of the Solar Overlay District.

- a. Tier 3 and Tier 4 Solar Energy Systems are presumed to be Type 1 actions subject to SEQRA review.
- b. Lot coverage: The facility area shall not exceed 33% of the total area of any tax parcel or lot. This coverage may be further reduced by the Town Board if it determines a lower coverage limit is necessary to accommodate environmental, aesthetic, or health and safety concerns.
- c. Lot Size: The minimum lot size for Tier 3 and Tier 4 solar energy systems is 25 acres.
- d. Height: The maximum height of any ground-mounted solar energy system is 20 feet from finished grade.
- e. Setbacks. The minimum setbacks from adjacent property lines are as follows:
 - (1) Front: 500 feet from any public road, measured from the center of the road.
 - (2) Side and Rear: 50 feet from all adjacent property lines that are at least 500 feet from a public road, and 250 feet from all adjacent property lines that are less than 500 feet of a public road.
 - (3) Minimum setback of 1000 feet from an occupied residence, or residential primary structure, or sensitive visual receptor, on adjoining lots measured from the nearest fence of the facility to the nearest portion of the residential structure or 500 feet from all adjacent property lines bordering an occupied residence, or residential primary structure, or sensitive visual receptor, on adjoining lots, whichever is greater.
 - (4) Minimum setback of 500 feet from all property lines bordering any school, public park, or other public place that may be adversely impacted by the solar energy system.
 - (5) Setbacks shall be measured from the nearest fence of the Facility Area.
- f. Design requirements:

- (1) All structures and devices used to support solar energy systems shall be nonreflective and painted a subtle or earth tone color.
- (2) Panels shall not be oriented such that they are directed at any adjacent residential dwelling.
- (3) Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and roads shall be capable of bearing the weight of emergency vehicles and sufficiently wide to permit access to emergency vehicles such as fire trucks and ambulances so that emergency vehicles may pass each other without leaving the road. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times.
- (4) Signage shall not exceed 6-square-feet per sign and shall be printed on a light reflective surface. No signage other than those required in subsection (5) below are permitted.
- (5) Signage at the meter, facility entrances, and where access road(s) intersect with public roads shall be required that contains the following information:
 - i. Disconnect and emergency shut-off information as required by the National Electric Code.
 - ii. 24-hour emergency contact information.
 - iii. Owner and operator's name, address and telephone number.
 - iv. Facility address and project name.
- (6) Lighting. Lighting of the facility shall be limited to that minimally required for safety and operational purposes and shall be dark-sky compliant, directional and shielded from all neighboring properties and public roads.
- (7) Fencing. All mechanical equipment shall be enclosed by a fence at least seven feet in height with a self-locking gate. The use of barbed wire, razor wire or electric fencing is prohibited. Fencing must be made of non-reflective material. The use of opaque fencing is encouraged to promote visual impact mitigation.
- (8) Screening. The Facility Area must be completely screened from all adjacent property lines. Existing vegetation on-site may be used to satisfy all or a portion of the required screening. Evergreens planted to be used as screening must be a minimum of 6-feet-tall at the time of planting. Off-site existing vegetation may not be used as part of a screening plan.

- (9) Landscaping. Landscaping used as screening must be maintained for the life of the project. Native vegetation is strongly encouraged to the extent practicable.
- (10) Transmission lines. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- (11) Wiring shall be neatly grouped, routed and continuously supported.
- (12) Where feasible, Solar Energy Systems shall be consolidated into array groupings, rather than situated in a disjointed manner.
- (13) Deforestation discouraged. Removal of trees and other existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar energy facility. Removal of existing trees larger than 6 inches in diameter at breast height (DBH) must be avoided to the maximum extent practicable. Mitigation is required for removal of existing trees larger than 6-inches in diameter. Mitigation may include planting of appropriately sized trees used for screening elsewhere on-site.
- (14) Soils. Disturbance of Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance, and MSG 1-4 shall be avoided to the maximum extent practicable.
- (15) The use avoids areas of potential environmental sensitivity, including unique natural areas, Floodplains, historic sites, state-owned lands, conservation easements, trails, parkland, prime soils, Lake Erie view shed, and wetlands as identified by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.
- (16) The use avoids installation on areas with slopes of greater than 15%.
- (17) The use avoids recreation areas and opens spaces designed for use by members of the public for recreation, hiking, biking, sporting events and similar activities, whether classified as pre-existing nonconforming uses or specially permitted.
- (18) Agricultural lands. Applicants must adhere to the NYS Department of Agriculture and Markets (NYSAGM) Guidelines for Solar Energy Projects-Construction Mitigation for Agriculture Lands. Applicants are required to implement dual-use agriculture solar strategies to the maximum extent practicable or otherwise offset any

loss of agricultural activity. Incorporation of sheep grazing into the vegetation management plan is encouraged.

(19) Noise. Once in operation, sound pressure level at the exterior of any residence or nonparticipating property line, expressed in terms of dBA Leq-8hr, shall not exceed existing background ambient noise, expressed in dBA Leq-8hr as measured by a qualified acoustician, by more than 6dB.

(20) Applicant shall provide proof that any proposed Battery Energy Storage System has a current Certificate of Approval issued by the City of New York Fire Department pursuant to 3 RCNY 608-01.

g. Decommissioning.

(1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner and/or operator's expense.

(2) Security.

i. The deposit, execution, or filing with the Town Clerk of cash or a letter of credit shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the state or local permit and provide for the removal and restorations of the site subsequent to removal. The amount of the letter of credit or cash escrow payment shall be 125% of the cost of removal of the Tier 3 or Tier 4 solar energy system and restoration of the property in accordance with any state or local permit conditions, with an escalator of 2% annually, or by a percentage equal to annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for the life of the solar energy system, except in any year where the decommissioning cost is recalculated as set forth below.

ii. The initial decommissioning cost calculation and subsequent updates shall be completed and stamped by a third-party New York State Licensed Professional Engineer with applicable solar facility experience, agreeable to both the facility owner and the Town of Brant. Such calculation shall also include a reasonable percentage allocated to possible soil remediation as a result of the install and/or operation of the Solar Energy System.

iii. Beginning on the second anniversary of completion of construction, and every fifth year thereafter until decommissioning is completed, a qualified and independent third-party assessor or other consultant agreeable to both the facility owner and the Town will recalculate the projected cost of decommissioning over the next five-

year period, and the applicant shall adjust the amount of the letter of credit to match 125% of the recalculated decommissioning cost.

- iv. Change in ownership. The obligation to maintain a decommissioning security letter of credit or cash escrow benefitting the Town of Brant is a continuing obligation that may not be transferred without written consent of the Town of Brant, which consent shall not be unreasonably withheld.
 - v. In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and after proper notice and expiration of any cure periods, the cash deposit, letter of credit, or security shall be forfeited to the Town which shall be entitled to maintain an action thereon. The cash deposit, letter of credit, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- (3) In the event of default under this section or the conditions of any permit for construction and operation of the solar energy system, or abandonment of the solar energy system, the solar energy system shall be decommissioned as set forth herein.

§161-39-I(7). Special Use Permit Requirements.

a. Application Requirements.

- (1) Accurate Real Property Survey.
- (2) Completed Site Plan Application as set forth in §161-39I(4)(b)(7) of this chapter.
- (3) Aerial site plan showing the location of relevant utility poles and lines, trees and structures, and the names of all adjacent property owners.
- (4) Location of battery storage, if any.
- (5) Location of access roads, including gates and parking areas.
- (6) Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, and insurance coverage.
- (7) Visual Impact Assessment (VIA). At a minimum, the VIA must include:

- i. A line-of-sight profile analysis.
 - ii. Photographic simulations of the facility area showing visual conditions with proposed landscaping and screening at the following intervals:
 - (a) At installation,
 - (b) At the two-year anniversary after installation, and
 - (c) At the five-year anniversary after installation.
- (8) Tree Inventory for trees with a minimum 6-inch DBH within the facility area.
- (9) Tree Clearing Mitigation Plan.
- (10) Engineer's Report including:
- i. SWPPP and Erosion Control Plan,
 - ii. Preconstruction Baseline Noise Analysis,
 - iii. Preconstruction Baseline Soil Sampling Plan,
 - (a) The Sampling Plan shall be developed in accordance with NYSDEC DER-10 site investigation guidance and shall include collection of a representative number of baseline soil samples in the proposed project area, agreed upon by the Town. Each sample shall be analyzed for semi-volatile organics, volatile organics, metals, and PFAS (Per- and Polyfluorinated Substances).
 - iv. Glare Analysis,
 - v. Drainage Plan,
 - vi. Clearing and Grading Plan, and
 - vii. Wetland Delineation
- (11) Agricultural Resource Mitigation Plan. Such plan shall include the following:
- i. Soil map showing soil type, Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance, and MSG 1-4.
 - ii. Discussion of proposed dual uses.
 - iii. Discussion of proposed mitigation.
- (12) Emergency Response Plan
- i. Notification plan for first responders.
 - ii. Annual training for first responders.
- (13) Emergency shut off location and material specification data sheets to be filed with the local fire department.

(14) Proposed Decommissioning Plan. Such plan shall include the following:

- i. Preconstruction soil testing plan to form a baseline for restoration.
- ii. Anticipated life of the project.
- iii. Restoration plan.
- iv. The projected cost of removing the solar energy system if decommissioning is required during the first five years after construction is complete, as determined by a qualified and independent third-party assessor or other consultant agreeable to both the facility owner and the Town.
- v. The time required to decommission and remove the solar energy system and any ancillary structures.
- vi. The time required to repair any damage caused to the property by the installation and removal of the solar energy system.
- vii. Proposed form of security.

(15) Proposed PILOT and Host Community Agreements.

- b. All Special Use Permit applications for a solar energy system shall be submitted to the Town of Brant Code Enforcement Officer.
- c. In addition to the requirements set forth in this chapter, the issuance of a special use permit shall be subject to any other requirements outlined in Brant Town Code Chapter 161.
- d. Applicant must obtain all necessary permits and approvals from applicable federal, state and county agencies having jurisdiction over any portion of the proposed solar energy system.
- e. Applications for a Special Use Permit shall be subject to a public hearing before the Town Board may act to approve or deny the requested permit.
- f. The Town Board may impose reasonable conditions on any special use permit issued under this Chapter.
- g. The Special Use Permit for a solar energy system shall be valid for a period of 12 months, provided that a building permit is issued for construction and construction has commenced within the first 12-month period. The Town Board may elect to extend the initial Special Use Permit for up to 180 days. If the owner/operator fails to perform substantial construction within 24 months of the date of the initial approval, the Special Use Permit shall expire.
- h. The Special Use Permit must be renewed annually.

- i. Ownership changes. If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the code enforcement officer of such change in ownership or operator within 30 days of the ownership change and update all signage at the property as soon as practicable.
- j. After completion of construction, the Applicant shall provide post-construction certification from a licensed New York State professional engineer that indicates that the project complies with all applicable codes and industry practices and has been constructed and is operating in accordance with the approved Special Use Permit.
- k. Any post-construction changes or alterations to a Type 3 or 4 solar energy system shall be undertaken only by amendment to the special use permit (and site plan approval, if required), subject to all requirements of this chapter.
- l. The applicant for a Special Use Permit shall deliver to the Town Clerk, along with its application for a Special Use Permit, an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit") to be held in escrow by the Town for use by the Town to pay consultants and attorneys engaged by the Town to assist in review of all applications for the proposed solar energy system. If the amount held in escrow is depleted prior to grant or denial of all applications associated with the solar energy system, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants. Following approval or denial of the required applications, any excess remaining in escrow shall be returned to the Applicant within 30 days. The Town Board may enter into an escrow agreement with the Applicant at its discretion.

§161-39-I(8). Revocation of permit; interpretation; severability.

- a. Violations of any of the conditions of the special use permit, site plan approval or any other local, state or federal laws, rules or regulations shall be grounds for the revocation of the special use permit or site plan approval. Revocation may occur after the applicant is notified, in writing, of the violations and the Town of Brant Town Board holds a hearing on same.
- b. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this chapter are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

- c. If any section, subsection, phrase, sentence or other portion of the chapter is for any reason held invalid, void, unconstitutional or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§161-39-I(9). Safety

- a. Solar Energy Systems shall be certified under the applicable electrical and/or building codes as required.
- b. Maintenance and repair.
 - (1) A Solar Energy System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all approval requirements and conditions.
 - (2) The Solar Energy System shall be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, and creation of an unsafe condition or detriment to public health, safety or general welfare.
 - (3) Site access shall be maintained, including snow removal sufficient to allow access to emergency personnel and emergency vehicles at all times.
 - (4) Owners and operators of Solar Energy Systems shall be required to keep all records of maintenance activities. The Town of Brant Code Enforcement Officer shall have access to such records upon request. A report summarizing all maintenance activities shall be filed annually with the Special Use Permit renewal application.
 - (5) The owner/operator of a Type 3 or 4 solar energy system shall be required to fully inspect the system on an annual basis. A copy of the inspection report shall be provided to the Brant Code Enforcement Officer as part of the renewal of the special use permit. (See §161-39I(7) of this chapter.) The inspection shall comply with all requirements of the New York State Building Code.
- c. Abatement and removal.
 - (1) If a solar energy system poses a safety hazard, as determined by the Town of Brant Code Enforcement Officer, the owner or operator shall take immediate action to remedy the hazard. The Code Enforcement Officer shall have the authority to cause the abatement of any hazardous situation, including issuance of a notice of violation and causing the solar energy system to be made nonoperational until such hazard has been remedied to the satisfaction of the Town of Brant Code Enforcement Officer.

- (2) If the use of an approved solar energy system is discontinued, the owner or operator shall notify the Town of Brant Code Enforcement Officer within 30 days of such discontinuance. If the solar energy system is to be retained and reused, the owner or operator shall further inform the Town of this, in writing, at such time and obtain any necessary approvals within one year. Otherwise, the solar energy system shall be deemed automatically abandoned.
- (3) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 1 year of notification.
- (4) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Brant may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§161-39-I(1)0. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Brant.

FINAL DRAFT: 5/7/2025

FACILITY USE AGREEMENT BETWEEN TOWN OF BRANT AND LAKE SHORE STORM SOFTBALL: Supervisor DeCarlo began discussion regarding the proposed agreement with the Lake Shore Storm Softball organization. Councilwoman Marien asked for clarification regarding part of the agreement. Supervisor DeCarlo then made a motion to approve the agreement contingent on satisfactory review of the Town Attorney Trask to ensure he received proof of their legal status. Councilwoman Giancarlo seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

Roll Call was taken:

Supervisor DeCarlo	Aye
Councilwoman Giancarlo	Aye
Councilman Muffoletto	Abstain
Councilwoman Brady	Aye

MOTION CARRIED.

SUMMER RECREATION PROGRAM PRICES:

After discussion, the Town Board will keep the current fees with no increase. The 2025 fees will be as follows:

RESIDENTS WITHOUT BUS:

- 1 child \$115
- 2 children \$195
- 3 children \$260
- 4 or more children \$275.00

RESIDENTS WITH BUS:

- 1 child \$235
- 2 children \$315
- 3 children \$440
- 4 or more children \$515

NON RESIDENTS WITHOUT BUS:

- 1 child \$235
- 2 child \$465
- 3 child \$605
- 4 child \$660

NON-RESIDENT WITHOUT BUS:

- 1 child \$300
- 2 children \$595
- 3 children \$810
- 4 or more children \$945

Supervisor DeCarlo then motioned to adopt the 2025 recreation fees as presented, seconded by Councilwoman Marien.

Roll Call was taken:

Supervisor DeCarlo	Aye
Councilwoman Marien	Aye
Councilwoman Giancarlo	Aye
Councilman Muffoletto	Aye
Councilwoman Brady	Aye

MOTION CARRIED.

RECREATION HOURLY WAGE INCREASES: Discussion regarding an increase in the wages of the Summer Recreation staff. Councilwoman Brady stated the level of responsibility they have warrants an increase. The discussion resulted in an increase of 10% across the board for hourly. Town Justice/resident Chad Kaczmarek spoke regarding the increase suggesting an increase of 5%. He was concerned about the cost of the increase. The board then reopened discussion regarding the increase in the summer recreation program fees. The Board then decided to increase the cost of the recreation program for NON-residents by 10% to offset the wage increase for the recreation staff. The new Recreation rate for NON-residents will now be:

NON-RESIDENTS WITHOUT BUS: (increased 10%)

- 1 child \$260
- 2 children \$515

3 children \$665
4 children \$725

NON-RESIDENT WITHOUT BUS: (increased 10%)

1 child \$335
2 children \$665
3 children \$890
4 or more children \$1,025

Supervisor DeCarlo then motion to approve the 10% increase for 2025 Summer recreation fees (see above) and increase the wages of recreation staff by 10% above the 2024 hourly rates. Councilwoman Brady seconded the motion. 5 ayes, 0 nays.

A Roll Call was taken:

Supervisor DeCarlo Aye
Councilwoman Brady Aye
Councilwoman Marien Aye
Councilman Muffoletto Aye
Councilwoman Giancarlo Aye

MOTION CARRIED.

APPOINTMENT OF “CO—DIRECTORS” OF RECREATION PROGRAM: Supervisor DeCarlo motioned to appoint Rebecca Holmes and Savannah Clear as Co-Directors of Recreation at the 10% rate increase as discussed. Councilman Muffoletto seconded the motion. 5 ayes, 0 nays.

Roll Call was taken:

Supervisor DeCarlo Aye
Councilman Muffoletto Aye
Councilwoman Giancarlo Aye
Councilwoman Marien Aye
Councilwoman Brady Aye

MOTION CARRIED.

2025 POOL FEE CHANGES: After discussion, the Town Board made the following pool fee changes:

- The first change to this year’s pool entry will be the implementation of ID cards which will allow residents to enjoy a reduced rate for the pool. The ID cards will be available at the Town Clerk’s office. Proof of address will be required.
- Season Family passes for ID bearing residents will be \$100 with no limit on the number of children who reside with the applicant
- Individual Day passes for residents is \$3.00 with proof of residency via ID cards
- Individual Day passes for NON-resident will be remain \$5.00
- Senior passes will remain \$25.00

Councilwoman Brady motioned to approve the new pool fees and ID requirements. Supervisor DeCarlo seconded the motion. 5 ayes, 0 nays.

Roll Call was taken:

Councilwoman Brady Aye
Supervisor DeCarlo Aye
Councilwoman Giancarlo Aye
Councilman Muffoletto Aye
Councilwoman Marien Aye

MOTION CARRIED.

PURCHASE OF AN AED REQUIRED FOR THE REC BUILDING: Supervisor DeCarlo motioned to approve the purchase of a new (\$1,395 State bid) AED for the Rec Building as required by the Health Department. Councilwoman Giancarlo seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

ACCEPT THE RESIGNATION OF DIANE CZYZ FROM PLANNING: Supervisor DeCarlo motioned to accept the resignation of Diane Czyz as member of the Planning Board. Councilman Muffoletto seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

MOVE TWO PLANNING BOARD ALTERNATES TO FULL MEMBERS: In response to the resignation, Supervisor DeCarlo motioned to move the two alternate positions (Sheila Rauker and Meg Pantera) to full member positions for the duration the respective terms. Councilwoman Brady seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

Chairman Debra Ritz advised the Town Board that Alternate member Sheila Rauker may also be resigning. She will await a resignation in writing. The chairman stated that if Sheila does resign officially, the planning board will be short one full member which confirms the Planning Board still has a quorum of members.

NYS RETIREMENT STANDARD WORKDAY RESOLUTION:

Supervisor DeCarlo motioned to adopt the following resolution

WHEREAS NYSLRS requires the filing of a Standard workday reporting, and

BE IT RESOLVED, that the Town of Brant – 30687 hereby established the following standard workdays for these titles and will report the officials to the New York State and Local Retirement:

- Mark DeCarlo, Supervisor Term, ending 12/2025 5 hours
- Barbara Daniel, Town Clerk, Term ending 12/2028 6 hours
- Jeffrey Gier, Town Justice, Term ending 12/2027 4 hours
- Chad Kaczmarek, Town Justice, Term ending 12/2025 4 hours

Councilman Muffoletto seconded the motion, 5 ayes, 0 nays.

Roll Call was taken:

Supervisor DeCarlo Aye
Councilman Muffoletto Aye
Councilwoman Giancarlo Aye
Councilwoman Marien Aye
Councilwoman Brady Aye

MOTION CARRIED.

PROPOSAL FOR TOWN HALL LANDSCAPE MAINTENANCE

Discussion regarding a proposal presented to the Town for Landscape maintenance in the amount of \$1,300.00. Councilwoman Marien asked why the Parks department is not performing the maintenance. Supervisor DeCarlo stated when he put into consideration the cost of mulch and fertilizer and the cost of trucking it and the cost of the employees to do the work, it would be cheaper to contract it out. Councilwoman

Marien objected saying its in their job description to let them do the work. Councilwoman Marien stated that letting our employees do the work will give us a cost comparison for next year. If it ends up costing \$1,500, then next year they can put that into consideration when justifying the expense.

Supervisor DeCarlo then noted the short staff and the need for outside help. Councilwoman Marien then stated that the Parks department should stop doing shared services with the highway. Councilwoman Marien wants a Parks Department report which she feels would allow the Town to justify the expense. Councilwoman Brady stated she knows how expensive landscaping is, with the cost of mulch and fertilizer. This request was tabled.

EVENTS:

- EWASTE SCHEDULED FOR SATURDAY MAY 31ST, 9 AM TO NOON.
- MEMORIAL DAY SERVICE WILL BE HELD IN FARNHAM MONDAY MAY 26TH AT 9:00 AM
- BARBEQUE BY FARNHAM FIRE DEPARTMENT AT NOON FOLLOWING SERVICE

TOWN BOARD REPORTS:

Councilwoman Brady: Attended the Southtowns Planning & Development group meeting. She was concerned if Brant farmers were able to give their concerns or questions to the Erie County Agricultural and Farmland Protection committee. The last study was done in 2012. She asked if there was a list of farmers in Brant. Town Clerk advised to contact the Assessor's office. Her concern was centered on letting Brant farmers know that their input was important. She then mentioned an offer from the Western New York Land Conservancy where landowners can sell a portion of their farmland at a decreased price to their trust to allow them to carve out homesteads and permanently preserve the land for future farming. Councilwoman Brady will give the information and brochures to the Town Clerk for anyone interested.

Councilwoman Brady continued with her seconded concern. She asked members of the Board to meet with her to discuss issues with Buildings and Grounds that they feel are imperative to handle for summer. Some of the items that were previously discussed were bringing water out to the front of the Town Hall. Councilman Muffoletto recommended utilizing the Rick, the last part time person that was hired for helping with the grounds. He felt he is very competent. Councilwoman Marien said he could probably put the whole water line in. Supervisor DeCarlo added that electricity is also needed in front of the Town Hall.

Councilwoman Marien: Spoke of the Easter Egg event. Supervisor DeCarlo commended her on the success of the event.

Councilwoman Giancarlo: Acknowledged a meeting she had with the Supervisor regarding the finances of the Town. She will have a follow-up meeting in about three 2 weeks, and will have something to report at that time.

Councilman Muffoletto: Wants to know the status of the dredging of the retention pond. He reminded the Board that it has been three years now since it was committed to be done. Discussion regarding having the highway perform the dredge using rented equipment. Councilman Muffoletto asked about the status of Turnbull performing the dredging. Councilwoman Giancarlo said she doesn't think he is going to do it. Supervisor DeCarlo stated he will call him. Discussion continued regarding the options and what would be required such as removing the fence, etc. Further discussion reminded the Board that Legislator Mills had already supplied a grant for \$3,000 towards the project. Councilman Muffoletto is going to get in touch with Paul and work out a plan. Attorney Trask reminded the Town Board to consult the Highway Superintendent before utilizing his staff.

RECOGNIZED PRIVILEGE OF THE FLOOR:

Frank Broughton came forward to publicly thank Senator DiPietro's office for responding to a Visa question he texted at 10:47 Pm local time, while he was in the Philippines. He stated he was surprised to get an almost instant reply.

Frank then questioned about the pricing for Recreation when he brings grandkids who live in North Collins.

The Secretary to the Supervisor Tracy Kaczmarek reminded those present that the deadline for the Brant Summer Festival ads for the booklet will be May 20th. They are also looking for donations of liquor for the basket that will be raffled.

Patty Friend of Brant Farnham Rd spoke regarding people driving ATV's, dirt bikes and other offroad vehicles. They are making ruts in their hay fields. Doing wheelies on the road and causing dangerous situations. Attorney Trask stated the Town needs to contact the county legislator to create a law governing these vehicles. When asked about being able to confiscate the bikers or ATV's, Attorney Trask replied that the Town has no legal authority to do so. The Chief of Police added that Juveniles can't be charged with trespassing. Monroe County has a model law that allows confiscation. Supervisor DeCarlo will discuss this at the Association meeting, and will take a copy of the Monroe County law.

The Police Chief asked for signature forms for the performing background checks for the recreation staff. Councilwoman Giancarlo wants to know if the search for recreation staff will be advertised. Supervisor DeCarlo stated it will.

Meetings & Correspondence:

- The first May sales tax remittance is in. The current transfer rate is 2.37% greater than the corresponding 2024 amount. Year-to-date transfers are running 11.0% above year at this time.
- ROAD CLOSURE ANNOUNCEMENT: Full closure of Cain Rd over Big Sister Creek from Mileblock Rd to BYS Route 62. The closure will begin May 6th with an estimated completion date of August 29, 2025. The bridge is being rehabilitated. Detour maps will be available in the Town Clerk's office.
- The DEC will hold a workshop on Friday June 13, 2025

APPROVAL OF ABSTRACT 5: Supervisor DeCarlo read the Abstract (5 of 2025):

ABSTRACT 5 of 2025

*Prepaid and unpaid as of 5/13/25 Total Claims **\$ 201,431.44**

Gen Fund Town wide Vouchers Totaling: **\$ 137,345.74**

Gen Fund – Part Town Voucher Totaling: **\$ 14,130.13**

Highway T.W. Vouchers Totaling: **\$ 32,448.48**

Highway P.T. Vouchers, Totaling: **\$ 11,617.32**

Street Lighting: Voucher Totaling: **\$ 5,889.77**

Brant Water Dist 1 (SS&SW): – Totaling **\$-**

PAYROLL (2 pay periods):

General Town Wide Payroll 3/23/25-4/19/25 – Totaling \$ **60,021.67**
General Part Town Payroll 3/23/25-4/19/25 Totaling: \$ **1,366.34**
Highway Payroll TW 3/23/25-4/19/25 Totaling: \$ -
Highway Payroll PT 3/23/25-4/19/25 Totaling: \$ **9,290.09**

REQUEST TO PREPAYMENT THE FOLLOWING:

- CINTAS \$452.21
- GREEN MOUNTAIN ELECTRICAL SUPPLY \$216.31
- IRR SUPPLY INV# 3547635-01 \$8.27
INV# 3547635-02 \$16.54
INV# 3547825-00 \$141.59
- DIVAL \$194.40
- OUTDOOR SOLUTIONS \$97.50 & \$195.00

Supervisor DeCarlo motioned to approve Abstract 5 of 2025, seconded by Councilwoman Brady. 4 ayes, 1 nays.

Roll Call was taken:

Supervisor DeCarlo Aye
Councilwoman Brady Aye
Councilwoman Giancarlo Nay
Councilman Muffoletto Aye
Councilwoman Marien Aye

MOTION CARRIED.

Supervisor DeCarlo announced the next regular Town Board meeting to be held June 10th, 2025 at 7:00 PM.

At 8:35 pm, Supervisor DeCarlo motioned to adjourn the meeting in memory of Doris Clear “Weegie”, seconded by Councilwoman Giancarlo. 5 ayes, 0 nays.

A roll call vote was taken:

Supervisor DeCarlo Aye
Councilwoman Giancarlo Aye
Councilman Muffoletto Aye
Councilwoman Marien Aye
Councilwoman Brady Aye **MOTION CARRIED**

Respectfully submitted by,

Barbara J. Daniel
Brant Town Clerk