



Town of Hopkinton

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HOPKINTON PLANNING BOARD PUBLIC NOTICE JANUARY 29, 2019

The Hopkinton Planning Board will hold a public hearing on Tuesday, January 29, 2019, at 6:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, to review and take action on the following proposed amendments to the Hopkinton Zoning Ordinance. A complete text of the proposed amendments is available at Town Hall and on the Town's website www.hopkinton-nh.gov.

- a) Amend Section III Establishment of Districts and Uses, 3.12 Accessory Dwelling Units (ADU), to allow a detached ADU provided the property owner agrees to and demonstrates compliance with conditions.
 - b) Amend Section III Establishment of Districts and Uses, inserting 3.13 Solar Energy Systems Ordinance that will accommodate solar energy systems, while considering the impacts and benefits of siting solar in Hopkinton.
 - c) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.D.7 Primary Agriculture Solar Energy System as a use requiring a Conditional Use Permit in all zoning districts.
 - d) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.F.21 Commercial Solar as a use requiring a Conditional Use Permit in all zoning districts.
 - e) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.20 Accessory Residential Solar Energy System as a use permitted in all zoning districts.
 - f) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.21 Accessory Agricultural Solar Energy System as a use permitted in all zoning districts.
 - g) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.22 Accessory Commercial Solar Energy System as a use requiring a Conditional Use Permit in all zoning districts.
 - h) Amend Section III Establishment of Districts and Uses, Table of Uses 3.6, inserting 3.6.H.23 Shared Solar Energy System as a use requiring a Conditional Use Permit in all zoning districts.
 - i) Amend Section III Establishment of Districts and Uses, 3.6 Use Regulations, inserting 3.6.1(e) Uses authorized by Conditional Use Permit. Uses denoted by the letter "C" in the Table of Uses shall obtain a Conditional Use Permit from the Planning Board. A Conditional Use Permit may not establish a use specifically prohibited by the Zoning Ordinance.
 - j) Amend Section II Definitions, inserting 2.1.C.4.a Conditional Use Permit: A conditional method to permit uses that are consistent with the intent of the underlying zoning district, as indicated by the Table of Uses in Section III, or as otherwise indicated in this Ordinance. A Conditional Use Permit shall be administered by the Planning Board, pursuant to RSA 674:21, to ensure that conditional
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use opportunities do not adversely impact neighboring properties, and are consistent with the health, safety and welfare of the public.

SECTION II DEFINITIONS

2.1.C.4.a Conditional Use Permit: A conditional method to permit uses that are consistent with the intent of the underlying zoning district, as indicated by the Table of Uses in Section III or as otherwise indicated in this Ordinance. A Conditional Use Permit shall be administered by the Planning Board, pursuant to RSA 674:21, to ensure that conditional use opportunities do not adversely impact neighboring properties, and are consistent with the health, safety and welfare of the public.

SECTION III ESTABLISHMENT OF DISTRICTS AND USES

3.6 USE REGULATIONS

3.6.1 The Table of Uses, Section 3.6, is divided into two parts, one for **principal uses** and the other for **accessory uses**, specifying the uses that are permitted by right, are permitted by special exception, **are permitted by Conditional Use Permit**, or are not permitted.

- (a) **Uses Permitted by Right** Uses denoted by the letter “P” in the Table of Uses are permitted by right in the Districts so indicated, subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.
- (b) **Uses Permitted by Special Exception** Uses which require the granting of a Special Exception by the Zoning Board of Adjustment are denoted by the letter “S” in the Table of Uses in the District so indicated. The Zoning Board of Adjustment may grant Special Exceptions in accordance with the procedures and conditions as specified in Section XV, Board of Adjustment, of this Ordinance, subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.
- (c) **Uses Permitted by Conditional Use Permit** Uses denoted by the letter “C” in the Table of Uses shall obtain a Conditional Use Permit from the Planning Board, subject to applicable sections of this Ordinance and other local, state and federal laws, rules and regulations. A Conditional Use Permit may not establish a use specifically prohibited by this Ordinance.
- ~~(e)~~(d) **Uses Not Permitted and Uses Not Specified** Uses denoted by the letter “X” in the Table of Uses are not permitted in the District so indicated.

Any use not specifically listed in the **Table of Uses** as a permitted use shall not be allowed unless the Board of Adjustment determines it is substantially similar to a use listed as a permitted use in the applicable zone by virtue of an Administrative Appeal to the Board. A use shall not be deemed substantially similar to a permitted use unless it is substantially similar in all aspects to a permitted use; otherwise the use shall be deemed to be not permitted. For purposes of this section, a substantially similar use shall include a use by reason of its normal operation, would not cause observable difference in patronage, service, sight, noise, traffic, employment or similar characteristics, including its impacts to abutting properties. Any use deemed by the Board to be a prohibited use, and any use

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explicitly prohibited by this Ordinance, shall only be allowed in the event that the Board of Adjustment grants a Variance allowing the use.

~~(d)~~**(e) All Uses subject to Wetlands Conservation District** All uses are subject to the provisions of Section XII, Wetlands Conservation District (Overlay).

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1	W-1
D. Agricultural/Forestry Uses										Section XII Wetlands Conservation District (Overlay)
7. Primary Agriculture Solar Energy System, Section III.	C	C	C	C	C	C	C	C	C	
F. Commercial Uses										
21. Commercial Solar Energy System, Section III.	C	C	C	C	C	C	C	C	C	
H. Accessory Uses										
20. Accessory Residential Solar Energy System, Section III.	P	P	P	P	P	P	P	P	P	
21. Accessory Agriculture Solar Energy System, Section III.	P	P	P	P	P	P	P	P	P	
22. Accessory Commercial Solar Energy System, Section III.	C	C	C	C	C	C	C	C	C	
23. Shared Solar Energy System, Section III.	C	C	C	C	C	C	C	C	C	

3.12 ACCESSORY DWELLING UNIT (ADU)

3.12.1 Authority: This Ordinance is adopted by the Town of Hopkinton on **June 1, 2017**, and amended on **March 12, 2019**, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:21 and 674:71 – 73.

3.12.2 Purpose: These regulations have been enacted in order to establish guidelines for Accessory Dwelling Units, in an effort to maintain neighborhood aesthetics while fulfilling the following goals:

- (a) Increase the supply of affordable housing and workforce housing without the need for more infrastructure or further land development.
- (b) Provide flexible housing options for residents and their families.
- (c) Integrate affordable housing and workforce housing into the community with minimal negative impact.
- (d) Provide aging residents with the opportunity to retain their homes and age in place.

3.12.3 Definitions:

- (a) **Accessory Dwelling Unit (ADU):** A residential living unit that is subordinate and within or attached to a single-family dwelling, **or is located in a detached structure**, and that provides independent living facilities for one or more persons, including provisions for sleeping,

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eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every accessory dwelling residence shall be deemed a residence of workforce housing for purposes of satisfying the obligations under NH RSA 674:59.

3.12.4 Standards: Applicant proposing an ~~Accessory Dwelling Unit~~ **ADU**, as defined in Section III, 3.12.3 (a), must agree to and demonstrate compliance with the following conditions in order to receive a building/use permit:

- (a) A maximum of one (1) ~~Accessory Dwelling Unit~~ **ADU** shall be permitted.
- (b) The ~~Accessory Dwelling Unit~~ **ADU** shall be located within or attached to the principal single-family dwelling **with common walls, or may be in a separate detached structure, such as a garage or barn, provided the existing structure conforms with required setbacks for the zoning district. An ADU may also be in a new structure.**
- (c) New construction for an **attached or detached accessory dwelling unit ADU** shall comply with all standards for a single-family detached dwelling including, but not limited to, setbacks, height limits and lot coverage, and shall not increase any non-conforming aspect of any existing structure. The architecture of the ~~Accessory Dwelling Unit~~ **ADU** shall be the same as the principal dwelling unit so to **match** provide aesthetic continuity **as a single-family dwelling**. This includes appearance, design, colors, and materials.
- (d) The accessory dwelling and principal dwelling units shall comply with all applicable State Building Codes and Fire Codes for construction.
- (e) ~~The Accessory Dwelling Unit shall consist of not more than 750 square feet of living area with the total area not to exceed 850 square feet and include no more than two (2) bedrooms.~~ **The total area of an ADU shall not exceed the lesser of (i) 1,400 square feet (combined heated/non-heated space); or (ii) 50% of the total floor area of the principal dwelling (heated/occupied space). Where 50% of the total floor area of the principal dwelling is less than 750 square feet, the maximum size allowed shall be 750 square feet.**
- (f) The ~~Accessory Dwelling Unit~~ **ADU** shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.
- (g) An ~~Accessory Dwelling Unit~~ **ADU** shall not be considered an additional dwelling unit for purposes of determining minimum lot size or development density of the property.
- (h) An interior door shall be provided between the principal dwelling unit and the **attached** ~~Accessory Dwelling Unit~~ **ADU**. There is no requirement that the interior door remain unlocked.
- (i) An independent exterior means of ingress and egress shall be provided **for an attached ADU**. The ingress and egress shall not be on the same side of the building as the principal dwelling unit.
- (j) **All new construction, intended to be used as a detached accessory dwelling unit, must be located to the side or rear of the existing principal dwelling, except when the Planning Board finds, during Site Plan Review, that the placement of the detached accessory**

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dwelling unit will not adversely affect the character of the neighborhood; traffic on roads; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.

- (k) Either the principal dwelling unit or the ~~accessory dwelling unit~~ ADU must be owner-occupied. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented during the temporary leave of absence. The owner must demonstrate that one of the units is their principal place of residence and legal domicile. Both the principal and ~~accessory dwelling units~~ ADU must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted.

Prior to the issuance of a zoning/building permit, the owner shall record in the Merrimack County Registry of Deeds acknowledgement of the ADU and the owner/occupancy requirement. Acknowledgement is to be in a form that is satisfactory to the Town, in order to put prospective buyers on notice of the prohibition against renting out both units.

- (l) There shall be a minimum of two (2) parking spaces for each dwelling unit with no additional curb cut from that which is for the principal dwelling unit.
- (m) The applicant for a permit to construct an ~~accessory dwelling unit~~ ADU shall make adequate provisions for water supply and sewage disposal for the ~~accessory dwelling unit~~ ADU in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.
- (n) No home business will be permitted in the ADU.
- (o) The use of the ADU shall not include such transient occupancies as bed and breakfasts, VRBO (vacation rental by owner), hotels, motels, inns, rooming, or board houses.
- (p) As an alternative, if allowed within the zoning district, a property owner can seek permission to convert the attached ADU to either a standard two-family or a multi-family dwelling.

3.13 SOLAR ENERGY SYSTEMS

3.13.1 Authority This Ordinance is adopted by the Town of Hopkinton on March 12, 2019, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:16, 674:21, 674:17(l)(j), and 672:1-III-a, as amended.

3.13.2 Purpose The purpose of this Solar Energy Systems Ordinance is to:

- (a) Accommodate solar energy systems and distributed generation resources in appropriate locations, while protecting the public's health, safety and welfare;
- (b) Regulate the implementation of solar energy systems in accordance with the recommendations stated in the Energy Chapter of the Hopkinton Master Plan;
- (c) Promote environmental sustainability while respecting the characteristics and landscape of Hopkinton; and

- (d) Support the State of New Hampshire's goal of developing clean safe, renewable energy resources as provided for in the statutes referenced above.

3.13.3 Definitions

- (a) **Agriculture Solar, Primary.** A mixed use of property for a solar energy system and agricultural use. The solar energy system is designed to *primarily* serve off-site uses and consisting of one or more ground-mounted solar arrays or modules, or solar related equipment, regardless of the rated nameplate capacity and solar land coverage, provided the existing agricultural use is preserved at the time of installation.
- (b) **Agriculture Solar, Accessory.** A solar energy system for on-site agricultural use and consisting of one or more ground-mounted or roof/building-mounted solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage, provided the existing agricultural use is preserved.
- (c) **Commercial Solar.** A use of land that consists of one or more free-standing, ground-mounted, solar energy systems regardless of rated nameplate capacity and solar land coverage that is designed primarily to serve off-site uses. A Commercial solar energy system may be authorized by Conditional Use Permit (CU) as a principal use.
- (d) **Commercial Solar, Accessory.** A solar energy system for on-site commercial use, and consisting of one or more free-standing, ground or roof/building-mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.
- (e) **Ground Mount, Free-Standing.** A solar energy system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including, but not limited to, fixed, passive, or active tracking racking systems.
- (f) **Rated Nameplate Capacity.** Maximum rated wattage output of a solar energy system based on the design output of the solar system.
- (g) **Residential Solar, Accessory.** A solar energy system for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.
- (h) **Roof/Building Mount.** A solar energy system that is structurally mounted to a roof or attached to a building. The system shall be no taller than 5 feet above the ridge line of the roof and not extend beyond the building footprint more than 5 feet. The system may include limited accessory equipment that is ground-mounted. For purposes of calculating array sizes or solar land coverage under the solar definitions in this section, roof or building mounted portions shall not be included if the system is made up of both roof or building and ground mounted systems. The building inspector may require information demonstrating that the roof or building can support the solar energy system, with additional supports if necessary.
- (i) **Screening.** A device or materials used to conceal one (1) or more elements of a site

from other elements or from adjacent or contiguous sites. Screening may include one (1) or a combination of the following materials of sufficient mass to be opaque or which shall become opaque after twelve (12) months and which shall be maintained year-round in an opaque condition: walls, fences, berms or plantings.

- (j) **Shared Solar.** A solar energy system that serves residences and/or commercial/industrial structures situated on two or more contiguous lots. The system is considered accessory to the uses on each of the lots that it serves.
- (k) **Solar Energy System.** Includes all equipment required to harvest solar energy to generate electricity. The solar energy system includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Solar energy systems include only equipment up to the stage that connection is made to the utility grid or site service point. A solar energy system may be allowed by right or authorized by a Conditional Use Permit.
- (l) **Solar Land Coverage.** Defined exclusively for the purposes of calculating the footprint of the land area occupied by the components of a solar array. The solar land coverage is the land area that encompasses all components of the solar energy system that touches the ground, i.e., footings and ancillary components of the system. It does not include mounting equipment, panels, access roads or fencing and is not to be interpreted as a measurement of impervious surface as it may be defined in this ordinance.

3.13.4 Applicability

- (a) **General** Any person seeking to construct or to carry out a commercial, commercial (accessory), agricultural (primary), or shared solar energy system shall apply to the Planning Board for Site Plan Review in accordance with the requirements set forth in the Town's Site Plan Review Regulations. In addition, such applicant shall submit the information required in 3.13.6 of this Ordinance.
- (b) **Exempt from this Ordinance**
 - (1) Municipal Systems: All solar energy systems for municipal use are exempt from land use regulations pursuant to NH RSA 674:54.
 - (2) The Town recognizes the benefit of participating in solar development. Therefore, privately owned and operated solar energy systems, under a lease agreement, on town property is exempt from this Ordinance.
- (c) **Building Permit** No solar energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. Furthermore, a building permit shall be required for any physical modifications to an existing solar energy system.

3.13.5 Solar Energy System Requirements:

- (a) **Setbacks.** All solar energy systems, including the panels, shall be considered structures and shall comply with building setback requirements in accordance with the

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Dimensional and Density Requirements, Section IV, as applicable, unless modified elsewhere in this Ordinance. For tracking systems, the setback shall be measured from the point and time where the array is closest to the lot line. No portion of a system may cross into the setback.

- (b) **Height.** For roof or building-mounted systems located in any residential zoning districts, the maximum height for any part of the system is five (5) feet above the ridge of the roof or five (5) feet above the highest part of the roof where there is no ridge. The maximum height for a ground-mounted system shall comply with the height restrictions in accordance with the Dimensional and Density Requirements, Section IV, as applicable, unless modified elsewhere in this Ordinance.
- (c) **Glare.** Solar energy systems shall be sited in a manner that will minimize impact due to glare on neighboring or adjacent uses.
- (d) **Signs.** All signs are prohibited, except for manufacturer identification, contact information for the owner/operator, or proper warning signs.
- (e) **Code Compliance.** The solar energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- (f) **Visual Impacts.** It is inherent that solar energy systems may pose some visual impacts due to the size and/or number of arrays needed to ensure adequate access to direct sunlight for solar energy use. It is the responsibility of the applicant to minimize the visual impacts for surrounding neighbors and the community
- (g) **Lot Coverage:** Ground-mounted solar energy systems shall not be considered as part of the maximum required lot coverage limitations and shall not be considered impervious surface. Impervious surface limitations as related to stormwater management for solar energy systems shall be addressed in accordance with applicable provisions of the Site Plan Review Regulations.
- (h) **Landscaping.** The following landscaping requirements shall apply to commercial and agricultural (primary) solar energy systems constructed under this ordinance.
 - (1) Solar energy systems shall, where practical, be landscaped with a buffer of plant materials that effectively screens the view of the solar system compound from adjacent streets and residential property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Natural vegetation is preferred.
 - (2) In locations where the visual impact of the system would be minimal, the landscaping requirement may be reduced or waived entirely.
 - (3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
- (i) **Noise.** Noise levels at the property line shall be in accordance with the Noise Control requirements, Section 5.5, unless modified elsewhere in this Ordinance.

- (j) **Stormwater** Ground mounted systems that are required to secure a New Hampshire Department of Environmental Services Alteration of Terrain (AoT) Permit in accordance with NH RSA 485:17 shall secure such permit accordingly.

A permit issued by NH DES shall be incorporated by reference into the final approval and shall be enforceable by the Town in accordance with the Zoning Ordinance.

No further local review of stormwater and erosion control shall be required where a project is required to secure the NH DES AoT Permit

All ground mounted systems shall be constructed in accordance with Best Management Practices for erosion and sedimentation control during the pre-construction, construction and post- construction restoration period.

Post construction: For purposes of enhancing natural stormwater management, site conditions and plantings post-construction shall include restoration of those areas of soil compaction to natural conditions. Plantings shall be native species and are recommended to beneficial habitat to song birds, pollinators and/or foraging species in order to maintain a healthy surface and subsurface habitat that can attenuate stormwater on the site.

- (k) **Lighting.** On-site lighting shall be minimal and limited to access and safety requirements only. All lighting shall be downcast and shielded from abutting properties in accordance with Hopkinton's Outdoor Lighting Ordinance, Section XVIII.
- (l) **Screening.** All applications shall include a plan demonstrating how the proposed ground-mounted solar installation will be incorporated into the local landscape so that effective screening is provided along public ways and from abutting views. The use of evergreens is recommended. The use of existing or created topography is encouraged to reduce visual impacts.

3.13.6 Conditional Use Permits. In granting a Conditional Use Permit, the Planning Board may impose such conditions as the Board determines are necessary to minimize any adverse effect of the proposed solar energy system on adjoining properties, and to preserve the intent of this Ordinance.

- (a) **Procedure on Applications.** The Planning Board shall act upon an application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.
- (b) **Decisions.** Possible decisions that may be rendered by the Planning Board include approval, approval with conditions, disapproval without prejudice, or disapproval. All decisions shall be rendered in writing, in accordance with RSA 676:3. Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Board of Adjustment but may be appealed under State law.
- (c) **Application Requirements.** All applications shall meet the standards set forth in 3.13.5 of this Ordinance.

- (d) **Plan Requirements:** Each applicant requesting a Conditional Use Permit under this Ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations and further information including:
- (1) A detailed plan showing the installation area of the site, including property lines with dimensions, topography, setbacks, right-of-way of the public road, and the location of accessways.
 - (2) A detailed plan showing the location, dimensions, and type of the proposed system to be installed on the site, including foundations, anchors, associated equipment, and utility connection point(s).
 - (3) A scaled elevation view;
 - (4) Fencing;
 - (5) Lighting;
 - (6) Location, dimensions, and types of existing major structures on the property;
 - (7) A plan detailing erosion control measures that will be adhered to during construction. Best Management Practices for erosion control shall be followed.
 - (8) A detailed landscape plan showing all systems visually screened via preservation of existing vegetation or use of landscaped screening as outlined in the Site Plan Review Regulations. The landscape plan shall indicate the location, height and spacing of existing vegetation to be preserved and areas where new plantings will be required. Following construction, cleared land areas must be restored with native species that are consistent with the use of the site as a solar energy system (such as slow growth or low ground cover).
 - (9) A plan demonstrating effective stormwater infiltration along with erosion control measures and soil stabilization.
- (e) **Other Information:** In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following information, prior to any decision by the Board.
- (1) Solar energy system specifications, including manufacturer, model, height, type, nameplate generation capacity.
 - (2) Copy of the application for interconnection with the electric utility provider.
 - (3) An emergency response plan, including details on emergency responder access to site, detailed response guidance and disconnection locations, including industry guidance documents on safety procedures for specific equipment, and contact information for the owner/operator shall be posted on-site and updated as necessary.

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- (4) Evidence of site control, which may be in the form of an option to lease or purchase.
- (5) A glare analysis, prepared by the manufacturer or qualified engineer, detailing potential glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations. Based on the information, the Planning Board may require reasonable mitigation. Mitigation may include angle of panels, details on the anti-reflective nature of the panel coating or any additional specific screening to minimize resulting impacts.
- (6) An estimate of the equipment (e.g., inverters) noise based on equipment specifications shall be provided. Noise levels at the property line shall be in accordance with the Town's Noise Ordinance.
- (7) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- (f) **Other Factors.** Other factors to be considered by the Board in reviewing applications shall include:
 - (1) Nature of uses on adjacent and nearby properties;
 - (2) To the maximum extent possible, all wiring associated with the utility connection shall be underground.
 - (3) All equipment locations, except for utility connections shall comply with required setbacks.
 - (4) Systems within viewsheds may be subject to additional screening.
 - (5) Security fencing may be required if the location of the systems presents a safety concern.
 - (6) Systems located on agricultural lands should minimize impacts to farmland activities and prime farmland soils.
 - (7) Dual use of the site (solar and non-solar) should be explored and encouraged, where appropriate and practical.
 - (8) Land clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the solar energy system;
 - (9) All season access to the critical components of the system shall be provided;
 - (10) In locations where the visual impact would be minimal, the landscaping requirement may be reduced or waived;
 - (11) For commercial systems, the applicant may be required to include a natural resource inventory that details site conditions, habitat and mitigation efforts.

- (12) For grid-connected systems, a copy of the final approved interconnection shall be filed with the Town.
- (13) Mitigation through anti-reflective coating shall have an index of refraction equal to or less than 1.30.
- (14) The applicant shall demonstrate through site planning and proposed mitigation that the solar energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but is not limited to, design, appearance, buffering, and screening. Required screening shall be maintained during the operative lifetime of the solar energy system's Conditional Use Permit. All electrical conduits shall be underground, except when the financial costs are prohibitive.
- (15) The Planning Board, at the time of review, may require the applicant to file a decommissioning plan and post a decommissioning security. The decommissioning security is to be based on the estimated cost of removal and restoration.

3.13.7 Waivers

- (a) **General.** The Planning Board may grant waivers to these regulations provided that a majority of the Board finds that the criteria set forth in Section 15.8.3 of the Zoning Ordinance regarding “**variances**” have been satisfied.
- (b) **Conditions.** In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.
- (c) **Procedures.** A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

3.13.8 Abandonment At such time that a commercial or agriculture (primary) solar energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

Upon abandonment or discontinuation of use, the owner shall physically remove the solar energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. “**Physically remove**” shall include, but not be limited to:

- (a) Removal of all above-grade components of the solar energy system including, but not limited to, mounting equipment, panels, and ancillary components of the system.
- (b) Restoration of the location of the solar energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the solar energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the solar energy system has been abandoned. If it is determined that the solar energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the solar energy system has been abandoned or discontinued, the owner of the solar energy system shall remove the system at the owner's sole expense within 90 days of receipt of the Notice of Abandonment. If the owner fails to physically remove the solar energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the system removed at the owner's expense.

3.13.9 Bonding and Security Insurance: In recognition of the hazards presented by abandoned and unmonitored commercial or agriculture (primary) solar energy systems, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of such abandoned facilities in the event that such facility is abandoned and the owner thereof is incapable and unwilling to remove the facility in accordance with Subsection 3.13.8. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed solar energy system, prior to the construction of system.