TOWN OF EXETER

AMENDMENTS TO

EXETER CODE OF ORDINANCES

APPENDIX A - ZONING

ARTICLE XI, SOLAR ENERGY FACILITIES

SECTION 11.1

AND

APPENDIX A - ZONING

ARTICLE II, ZONING DISTRICT USE REGULATIONS

SECTION 2.4.1, USE CATEGORY

NOS. 69 THROUGH 74

AND

APPENDIX A - ZONING

ARTICLE I, ADMINISTRATIVE PROCEDURES

SECTION 1.2 DEFINITIONS

The Town Council of the Town of Exeter hereby ordains as follows:

SECTION 1. *Appendix A – Zoning, Article XI, Section 11.1, of the Zoning Ordinances is hereby amended to read as follows:*

Section 11.1.1. *Solar energy facilities*

A. *Purpose.* The purpose of this section is to regulate the installation of solar energy facilities by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such facilities that address public safety, minimize impacts on scenic, natural and historic resources and are compatible with the Town's Comprehensive Plan.

B. *Applicability.* The provisions of this section shall apply to placement, design, construction, operation, monitoring, expansion and/or repair or removal of any solar energy facility in the Town of Exeter.

C. *General Requirements.* All solar energy facilities shall comply with the following requirements.

1. Location Solar energy facilities shall be allowed in accordance with Section 2.4.1 of the Town of Exeter Zoning Ordinance Use Tables.

2. Building permit and inspection. No solar energy facility shall be constructed, installed, or modified without first obtaining a building permit and such facility shall be subject to periodic inspections as deemed necessary by the building official and/or electrical inspector.

3. All solar energy facilities are strongly encouraged to be located on rooftops, contaminated sites, gravel banks, quarries, and parking lots and in existing industrial zones. To encourage solar development in these locations, the solar land coverage requirement may be increased to 50% of the land suitable for development if it can be demonstrated to the Planning Board that the remaining general requirements in this section can be met and the modification of the solar land coverage requirement would not negatively impact adjacent property owners and is consistent with the Exeter Comprehensive Plan. All other provisions of this ordinance would remain applicable.

4. No individual panel within a ground-mounted solar energy facility shall exceed 12 feet in height. Solar canopies are exempted from this requirement.

5. Proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary. No removal of topsoil or unnecessary disturbance of the ground or grading is permitted as part of the installation or maintenance. Any topsoil that must be moved shall be stored and stabilized on-site for future use.

6. To the maximum extent practicable, all ground mounted solar installations shall be located so as to take advantage of existing cleared land. Clearing of forest or woodland shall be avoided to the greatest extent practicable.

7. A building mounted solar energy facility shall not exceed the permitted building height as set forth in Section 2.4.2.

8. Ground-mounted solar energy facilities shall conform, at a minimum, to the yard setback requirements of the applicable zoning district.

9. Decommissioning. Any solar energy facility which has reached the end of its useful life shall be removed within 180 days from the date of discontinued operations. A decommissioning estimate, prepared by a RI licensed engineer, must be approved by the Planning Board during the preliminary phase of review. Each element of the decommissioning cost estimate must include verifiable source with contact information. Decommissioning shall consist of:

    a. Physical removal and recycling of all solar energy facility structure, equipment, security barriers, fencing and transmission lines from the site.

    b. Disposal of all solid and hazardous waste in accordance with all federal, state and local laws, regulations and ordinances.

    c. Stabilization and re-vegetation of the site in compliance with all state and local laws, regulations, and ordinances necessary to minimize erosion. The site shall be inspected by the Exeter Zoning Inspector and/or his/her designee in coordination with the Town Planner.

10. Financial surety. Prior to the issuance of a building permit for a medium, large or utility scale ground mounted or solar canopy solar energy facility, an escrow agreement or escrow fund to cover 125% of the cost of decommissioning, as approved by the Planning

Board, shall be posted with the Town of Exeter. This surety shall be automatically renewed annually for a minimum of 20 years or for the anticipated life of the solar energy system.

11. Parking and circulation. The applicant shall demonstrate that adequate access and parking are provided for service and emergency vehicles as determined by the Planning Board in consultation with the Fire Marshal.

12. Fencing. The applicant shall be required to install a minimum of a 6 foot fence around the perimeter of the solar energy facility. Barbed wire fencing is prohibited. The fence shall be installed a minimum of 8 inches off the ground to allow small animals to pass underneath. Newly installed fences shall be flagged for at least six (6) months to protect both fencing and wildlife. In the instance where the applicant can show that the surrounding area and site do not require fencing for protection or trespass, or to allow agricultural production within the array area, the Planning Board may waive the fencing requirements. Solar canopies are exempt from this requirement.

13. Applicants must provide a thorough explanation of any transmission lines access or upgrade required as a result of the project, including but not limited to the route starting and end points, potential impacts to street trees, and right-of-way width.

14. Applicants must provide a thorough explanation of any new or proposed upgrades to electrical substations that are related to the proposed project. Information necessary is including but not limited to location, screening, setbacks and noise impacts.

15. Stormwater Management and Erosion and Sediment Control. Every effort shall be made to avoid or minimize changes to existing topography and hydrology. Site alterations must conform to the most recent edition of the RI Stormwater Design and Installation Standards Manual and the RI Soil Erosion and Sediment Control handbook, as well as applicable town regulations. All applicable erosion and sediment controls must be in place prior to construction, including site work, begins.

16. Siting and screening. The solar facility shall be sited and screened to minimize the aesthetic effect of solar facilities on viewsheds within the community. The design shall incorporate landscaping and design elements to visually screen the installation from view of public roads and adjoining properties. Solar installations in residentially zoned districts shall maintain a two hundred (200) foot undisturbed vegetated setback from all adjacent properties and roadways. If planting is required within the designated setback due to a lack of natural screening, such plantings shall be a minimum of 6 feet in height at the time of installation. Solar energy facilities in the B, LB-R, LI, Planned District and PVOD zones shall be required to provide the two hundred foot undisturbed vegetated buffer on property lines abutting residentially zoned land. As part of the Major Land Development or Development Plan review process the Planning Board may alter this width or require additional screening elements dependent on site characteristics such as slope, wetland area, existing buffering, etc.

17. Reasonable efforts shall be made to place all utility connections from the facility underground, depending upon appropriate soil conditions, shape, topography of the site, sub-surface conditions, and any requirements of the utility provider.

18. Lighting of a ground-mounted solar energy facility shall be consistent with local, state and federal law. Lighting of other parts of the facility, such as appurtenant structures, shall be

limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

19. Solar energy facilities and associated equipment shall not be allowed on land held under conservation easement or land for which the development rights have been sold, transferred, or otherwise removed from the parcel, unless the conditions of the easement, deed or other applicable legal document specifically allows for such facility.

20. All solar energy facilities shall be designed and located to prevent reflective glare toward any inhabited buildings or adjacent properties. Glare generated from solar panels shall not interfere with traffic or create a safety hazard.

21. The applicant is required to provide verification from a RI licensed landscape architect at the preliminary stage of review that the landscape buffer is adequate to thoroughly screen the solar energy facility year round. In addition, the required vegetated buffer/screening shall be maintained for the life of the solar energy facility. The property owner and/or facility owner shall be required to replant any section of the buffer/screening found not to meet the requirements of this section as determined by the Zoning Enforcement Officer with consultation from the Town Planner.

22. In any areas of the site where prime farmland or farmland of statewide importance, as determined by the United States Department of Agriculture Natural Resource Conservation Service within the most recent Rhode Island Soil Survey, and where the solar facility or a portion of is proposed the following is required:

    a. If soils need to be removed from areas of the site for installation purposes, the soils must be stored on site for future reclamation and areas under the panels are to be replanted with grass or low growth vegetation that is listed in the University of Rhode Island's native plant database;

    b. Siting of the facility overall and individual panels shall keep with the existing contours of the land, and only pile driven or ballast block footing are to be used, so as to minimize the disturbance of soils during installation; and

    c. Required vegetative buffers are to be composed of plant materials listed in the University of Rhode Island's native plant database (except as otherwise permitted in this ordinance), with a preference for pollinator-friendly materials to the maximum extent practicable.

D. Applications for Major Land Development Projects. Applications shall include, in addition to the requirements set forth in the Town's Land Development and Subdivision Regulations, the following items. These items are required for submission in order for the Administrative Officer to certify the application as complete and place it on an agenda for review at the Master Plan (and all subsequent stages) stage of review unless otherwise specified. The Planning Board may waive any document requirement it deems appropriate upon written request of the applicant.

1. Class I comprehensive boundary survey site plan including a T-1 topography survey;

2. Property lines and all physical features for the project site;

3. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting and screening vegetation or structures that conform to the Town's Land Development and Subdivision Regulations;

4. A site plan of the solar energy facility showing the proposed layout of the system and any potential shading from nearby structures or vegetation;

5. One or three line electrical diagram detailing the solar energy facility, associated components and electrical interconnection methods, with all current state electrical code compliant disconnects and over current devices; (required at Preliminary stage)

6. Documentation/details of major system components to be used, including the energy panels, mounting system and inverter; *(required at Preliminary Stage)*

7. An operation and maintenance plan which addresses site access maintenance, vegetation management, equipment and fence maintenance and any other maintenance that may be needed to address town requirements imposed as a result of unique site conditions; *(required at Preliminary Stage)*

8. Proof of liability insurance in an amount approved by the town; (required at Final Stage)

9. Decommission/restoration plan including an itemized cost estimate for the decommissioning and restoration of the site; *(required at Preliminary Stage)*

10. A copy of the Preliminary Interconnection Feasibility Study from National Grid or the applicable utility company;

11. A zoning certificate for the property on which the solar facility is proposed;

12. The calculated square footage of the proposed solar facility including rows and interspacing between panels to be used to calculate the fee for each stage of review and for the calculation of the coverage area; *(required at each stage of review)*

13. A project narrative, which shall contain a summary of the proposed facility, a description of the facility's context in relation to the surrounding neighboring land uses and environmental features, and detail regarding the proposed operational characteristics of the solar energy facility, including features concerning the means and methods planned to minimize or avoid off-premise impacts to adjoining land use;

14. A landscape plan, stamped by an Rhode Island registered Landscape Architect showing the following information:

    a. That the land beneath the panels will be reseeded after installation with a grass or low growth vegetation that is listed in the University of Rhode Island's native plan database to the maximum extent practicable;

b. Required vegetative buffers are comprised of plant materials listed in the University of Rhode Island's native plant database, with a preference for pollinator-friendly materials;

c. Any areas of buffering or screening required by the Planning Board.

d. Only native vegetation and planting shall be used as screening for solar facilities. Additional landscaping vegetation and plantings must not be conspicuously different than the existing natural vegetation and planting in the project vicinity, both in the types of plants and layout configuration;

e. The Planning Board may allow for exceptions to these requirements in the event that the applicant requests to plant non invasive harvest crops to allow agricultural production within the limits of the solar installation.

E. To ensure the fulfillment of the requirements of this Section, the Planning Board shall have the authority to require the following:

1. Adjustments to the proposed location of the solar energy facility determined to be necessary to mitigate negative impacts to adjacent properties or impacts to the general public through loss of scenic vistas and/or cultural and/or historic character.

2. The provision of additional landscaping beyond the minimum requirements of this Section and the Town's Land Development and Subdivision Regulations, where such is necessary to mitigate negative impacts to adjacent properties or prominent viewsheds, or due to the unique characteristics of the subject property.

3. Submission of an Environmental Community Impact Study (ECIS) in accordance with Section 3.4 of the Land Development and Subdivision Regulations at the Master Plan review stage.

F. Additional requirements for solar energy facilities in all residential zones:

1. Ground mounted solar facilities allowed pursuant to this Section shall have a solar land coverage of no more than 15 percent of the parcel on which they are located including existing structures. The Planning Board may waive this requirement if they find that the parcel and/ or circumstances of the facility are unique and/or would serve a public benefit to allow a higher percentage of solar land coverage, this is including but not limited to contaminated sites, gravel banks and landfills.

2. Any subsequent subdivision of a parcel in residential zone that contains a solar energy facility shall be required to maintain the minimum parcel size on which the facility exists, as well as not exceeding the solar land coverage established in this ordinance.

G. Additional requirements for solar energy facilities in non-residential zoning districts (B, LR-R, LI, Planned District, PVOD)

1. Ground mounted solar energy facilities in the B, LB-R, LI, Planned District and PVOD zone shall not have a solar land coverage of more than 25 percent of the lot on which they are

located, including existing structures.

H. Additional requirements for solar energy facilities along scenic roadways:

1. Ground mounted solar energy facilities located adjacent to a designated (local or state) scenic highway shall locate the solar facility, including solar panels and any appurtenant structures, out of the viewshed of the scenic roadway.

Section 11.1.2. *Procedural Requirements*

A. Building-mounted solar energy facilities

1. Building-mounted solar energy facilities are permitted in all zoning districts per Section 2.4.1 of the Zoning Ordinance.

2. Issuance of a building permit (local and/or state) is required prior to any installation of a building-mounted solar energy facility.

3. All building mounted solar energy facilities adjacent to a scenic roadway (local or state designated) shall place the solar panels and appurtenant structures out of the viewshed from the scenic highway, where possible.

4. No individual panel, within a building mounted solar energy facility, shall exceed the permitted building height for the zoning district which the structure the panel is mounted on is located.

B. Solar canopies

1. Solar canopies shall be located over parking lots, driveways or walkways

2. All solar canopies shall meet all applicable zone requirements including but not limited to lighting, setbacks and signage.

3. All medium and large scale solar canopies shall meet the following:

a. Development Plan Review approval from the Planning Board

b. Applicable general requirements identified in Section 11.1.1.C

C. Small-scale solar energy facilities

1. All small-scale solar energy facilities are required to apply for Development Plan Review in accordance with Section 2.5 of the zoning ordinance. In addition to the requirements found in Section 2.5 all applicable requirements under 11.1.A.c of this section shall apply

D. Medium-scale solar energy facilities

1. All medium-scale solar energy facilities are required to apply for Development Plan Review and a Special Use Permit in accordance with Section 2.5 of the zoning ordinance. In

addition to the requirements found in Section 2.5 all applicable requirements under 11.1 of this section shall apply

E. Large-scale solar energy facilities

1. All large-scale solar energy facilities shall be subject to Major Land Development per the Land Development and Subdivision Regulations and a Special Use Permit and all applicable requirements set forth in this ordinance Section 11.1.

F. Utility-scale solar energy facilities

1. All utility-scale solar energy facilities shall be subject to Major Land Development per the Land Development and Subdivision Regulations and a Special Use Permit and all requirements set forth in this ordinance Section 11.1.

SECTION 2: *Appendix A – Zoning, Article II, Zoning District Use Regulations, Section 2.4.1, Use Category, Nos. 69 through 74, is hereby amended to read as follows:*

2.4.1 Use Category	DISTRICT										
	RE-2	RU-3	RU-4	CR-5	B	LB-R	LI	OS/PL	GWOL	Planned District	PVOD
69. Accessory building-mounted solar facility	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
70. Solar Canopy	N	N	N	N	Y	Y	Y	N	Y	Y	Y
71. Small-scale solar facility	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
72. Medium-scale solar facility	S	S	S	S	Y	Y	Y	N	Y	Y	Y
73. Large-scale solar facility	S	S	S	S	N	N	Y	N	S	Y	N
74. Utility-scale solar facility	N	N	N	N	N	N	S	N	S	S	N

SECTION 3: *Appendix A – Zoning, Article I, Administrative Procedures, Section 1.2, Definitions, is hereby amended by adding thereto the following definitions in their proper, alphabetical, and numerical order and by renumbering the existing definitions accordingly and as may be necessary:*

Article I, Administration Procedures, Section 1.2, Definitions:

Accessory building- mounted solar array. A solar energy system that is incidental and subordinate to the principal use(s) of the parcel, where the power produced can be used onsite, virtual net metered or sold back to the electric distribution company. An accessory building-mounted system shall be installed only on the roof of a structure.

Ground-mounted solar energy facility. A solar energy system that is structurally appended to the ground and is not supported by a structure or building.

Large-scale solar energy facility. A solar energy system that occupies 40,000 square feet up to 220,000 square feet, inclusive of inter-row and panel/collector spacing

Medium-scale solar energy facility. A solar energy system that occupies more than 1,600 square feet but less than 40,000 square feet of area, inclusive of inter-row and panel/collector spacing.

Building-mounted solar energy facility. A solar energy system that is structurally appended to the roof of a building or structure.

Small-scale solar-energy facility. A solar energy system that occupies 1,600 square feet of area or less, inclusive of inter-row and panel/collector spacing.

Solar canopy. A solar energy facility that is located on a new elevated structure that hosts solar panels and provides shelter to a parking area, driveway or walkway underneath.

Solar energy facility. The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas or electricity produced from a non-renewable source. This shall include photovoltaic arrays and installations that utilize building-mounted and/or ground-mounted systems.

Solar land coverage. The total footprint of land occupied by all components of a solar energy system including but not limited to solar panels, mounting equipment, ancillary components of the system, inter-row and panel/collector spacing, access, and all other areas within the required perimeter fencing.

Utility-scale solar energy facility. A solar energy system that occupies more than 220,000 square feet of area, inclusive of inter-row and panel/collector spacing.

SECTION 4: *All prior ordinance provisions inconsistent herewith are hereby repealed and amended to conform with the above.*

SECTION 5: *Effective Date*: These amendments shall take effect upon passage.

Introduced by Calvin A. Ellis, Council President: JANUARY 7, 2019

Passed by Vote of the Exeter Town Council: FEBRUARY 4, 2019

Revised form approved: FEBRUARY 4, 2019

Effective day of passage: FEBRUARY 4, 2019

Calvin A. Ellis, Town Council President
Dated: FEBRUARY 4, 2019

Lynn M. Hawkins, CMC, Town Clerk
Dated: FEBRUARY 4, 2019