Article 9: ~~LARGE SCALE~~ SOLAR FACILITIES BYLAW

SECTION 9.01: ~~Large Scale~~ Solar Facilities Bylaw

(*Added as Section **22.5 "As-of-Right Siting"** – Special Town Meeting 17 October 2011; Renamed and amended – annual Town Meeting – 11 May 2015) (5 June 2021)*

(a) **Purpose**

The purpose of this bylaw is to *provide for the construction and operation of solar energy facilities and to provide* ~~promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing~~ standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

~~The provisions set forth in this section shall apply to the construction, operation, and/or repair of largescale ground-mounted solar photovoltaic installations.~~

~~1. **Applicability**~~

~~This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.~~

(b) **Definitions**

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited~~,~~ but can be reasonably regulated by the inspector of buildings, building commissioner or local inspector.~~, or if there is none in a town, the Planning *B*board designated by local ordinance or bylaw.~~

Building Inspector: The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

Intermediate Scale Solar Facilities: Solar array that is greater than 25 kw but less than 250 kW DC in capacity.

Residential/Small Commercial: *Any roof-mounted installation on an existing structure or any ground-mounted installation less than or equal to 25 kW DC in capacity.*

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC. *Large Scale Ground Mounted Solar Photovoltaic Installations are referred to in this Article 9 as Large Scale Solar Facilities or LSSF.*

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur, *including but not limited to~~.~~ dual use or Agrovoltaics, parking lots, etc.*

Prime Forest Land*: Land that has soil capable of growing wood at the rate of 85 cubic feet or more /acre/year in natural stands and is currently forested*

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Overlay District: The Solar Electric Overlay District(s) as designated by the Town of Conway are shown on the Official Zoning Map dated ~~November 7, 2013~~ *February 22, 2021,* in accordance with Massachusetts General Laws Chapter 40A. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Conway Town Clerk. Large-scale solar installations are allowed as-of right in this district *with site plan review*~~.~~

Solar Photovoltaic Array: an arrangement of solar photovoltaic panels *measured by the perimeter of the area in which the solar panels are located.*~~.~~

Special Permit Granting Authority*: The Planning Board of the Town of Conway.*

Zoning Enforcement Authority: The person or board charged with enforcing the zoning ordinances or bylaws.

SECTION 9.1
(~~c~~*a*) General Requirements for all ~~Large Scale~~ Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in Conway.

1. **Compliance with Laws, Ordinances and Regulations**
The construction and operation of all ~~large scale~~ solar photovoltaic installations shall be consistent with all applicable local, state, ~~-~~and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. *All solar photovoltaic facilities, including the LSSF and access roads,*

shall meet the wetland buffer and river protection standards set forth by the Massachusetts Wetland Protection Act Regulations (310 CMR 10.0), and any additional local wetlands protection bylaws. ~~.~~ All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

2. **Building Permit and Building Inspection**
No ~~large scale~~ solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3. **Fees**
The application for a building permit for a ~~large scale~~ solar photovoltaic installation must be accompanied by the fee required for a building permit.

(*b*~~d~~) ***Specific Requirements for Solar Photovoltaic Installations***

*1. **As-of-Right** (building permit) – Roof or ground mounted less than 25KW DC (residential/small commercial)*
The following solar photovoltaic installations, as defined herein, are allowed as of right with issuance of a valid building permit from the building inspector in all zoning districts: Any roof-mounted installation on an existing structure or any ground-mounted installation less than or equal to 25 kW DC in capacity.

*2. **As-of-Right with Site Plan Review**-*
The following solar photovoltaic installations, as defined herein, are allowed as of right with site plan approval in all zoning districts:

a. Any ground-mounted installation greater than 25 kW DC over an existing parking surface, pedestrian walkway, or other paved area in a manner that maintains the function of the area beneath the canopy.

b. Any other ground- or roof-mounted installation greater than 25 kW DC (up to 1.25 Acres of panel coverage) but less than 250 kW DC in capacity.

c. Any solar installation located in the Solar Overlay District (required by Green Community Act)

*3. **Special Permit**: Any solar photovoltaic installation 250 kW DC or above not specified in (d)(1) or (d)(2) above requires a special permit in all zoning districts from the Special Permit Granting Authority. For all special permit applications, site plan approval as described below is required, but shall not require a second public hearing, per bylaw or ordinance addressing site plan approval. The provisions set forth in Section 9.3 shall apply to the construction, operation, and/or repair of largescale ground-mounted solar photovoltaic installations.*

Large Scale Solar Facilities located in the Solar Overlay District are exempt from the requirements of Section 9.3..

(c) ***Not Permitted***
No commercial solar photovoltaic installation may be permitted as follows:

-1. Any solar photovoltaic installation of greater than 20 (twenty) acres of previously undisturbed land in solar array area.

2. Any solar photovoltaic installation requiring forest clearing greater than 10 (ten) acres of prime forested land.

3. Any solar photovoltaic installation on slopes of 15% or greater as averaged over 50 (fifty) horizontal feet. The Special Permit Granting Authority may consider waiving this up to 18% based on site-specific parameters. No cutting or filling may be done to reduce natural slopes.

(d) ***Severability***
If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

SECTION 9.2
Intermediate Scale Solar Facilities Greater than 25 kW but less than 250 kW DC in Capacity

(a) **Site Plan Review**
Ground-mounted large scale solar photovoltaic installations ~~with 250 kW or larger of rated nameplate capacity~~ shall undergo Site Plan Review (see Section 64) by the Planning Board *(in addition to a Special Permit where required)* prior to construction, installation or modification as provided in this section.

1. **General**
All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

2. **Required Documents**
Pursuant to the Site Plan Review process, the project proponent shall provide the following documents in coordination with or in addition to those required by Section 64:

(a) A*n existing condition* site plan showing:

i. Property lines and physical features, including *topography and* -roads, *characteristics of existing vegetation, wetlands, streams, and ledge* for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures,~~;~~ *driveways, snow*

storage, and storm water management systems; including total acreage of disturbed area, total vegetation cleared, not including mowed fields;
iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
vi. Name, address, and contact information for proposed system installer;
vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; and
viii. The name, contact information and signature of any agents representing the project proponent.

(b) Documentation of actual or prospective access and control of the project site (*see Section 9.3(b~~91(e)~~)*);
(c) An operation and maintenance plan (see Section *9.3(c)*~~91(f))~~);
(d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
(e) Proof of liability insurance;
(f) Description of financial surety that satisfies Section *9.3(o)(3*~~91(k~~);
(g) Pre-construction photos from the right-of-way and nearest abutters.
(h) Visualization of post-construction solar development, including perspectives from right-of-way(s), nearest abutting properties or residential structures, and tree coverage. The Special Permit Granting Authority may require additional visualizations to be submitted for review; and
(i) A written statement from a qualified Acoustic Engineer that no continuous noise or vibrations normally perceptible above street noise without instrumentation will be able to be heard at any point more than 100 feet from the perimeter of the solar array.

The Planning Board may waive submittal of the Required Documents as it deems appropriate.

SECTION 9.3:
Large Scale Solar Facilities Greater than 250 kW DC

(a) ***Large Scale Solar Facilities***
The provisions set forth in this section shall apply to the construction, operation, and/or repair of largescale ground-mounted solar photovoltaic installations.

*1. **Applicability***
This section applies to Large-Scale Ground-mounted Solar Photovoltaic Installations (Large Scale Solar Facilities or "LSSF") proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

*2. **Special Permit Granting Authority & Site Plan Review***
The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section in accordance with M.G.L. 40A, Section 9. Special Permits issued by the Planning Board shall require a positive vote by a supermajority vote of Planning Board Members. Any proposed Large Scale Solar Facility requires a Special Permit and Site Plan Review approval as specified in Section 9.2. The Planning Board may, in any particular case, waive strict compliance with the requirements set forth in section 9.3 where such action is in the public interest and not inconsistent with the intent and purpose of this Article. In addition to the Special Permit requirements found in Section 63 and the Site Plan Review requirements found in Section 64 of these bylaws, the Planning Board is empowered hereunder to review and approve Special Permit applications for Large Scale Solar Facilities and impose requirements for construction and maintenance of such facilities. The purpose of these requirements is to avoid site development which may result in negative environmental, neighborhood, or public safety impacts.

(*b*~~e~~) **Site Contro**l
The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

(*c*~~f~~) **Operation & Maintenance Plan & Landscape Plan**
The project proponent shall submit a plan for the operation and maintenance of the ~~large- scale ground-mounted solar photovoltaic installation~~*LSSF*, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

The project proponent shall submit a Landscape Plan detailing all proposed changes to the landscape of the site including: vegetation removal, temporary or permanent access roads, grading, exterior lighting and screening of structures. The Landscape Plan shall show the type and location of vegetation proposed to screen the installation *(*including appurtenant structures*)* from public ways and adjacent properties. The depth of the screen shall be 30 feet and will be composed of native trees and shrubs staggered for height and density that shall be properly maintained. The owner/operator shall not remove any naturally occurring vegetation such as trees and shrubs unless it adversely affects the performance and operation of the solar installation. *Existing root structures and topsoil shall be maintained to the maximum extent*

possible. Where removal of naturally occurring vegetation such as trees and shrubs is planned, the owner of the LSSF must demonstrate that the removal of this vegetation is necessary and that its presence adversely affects the performance and operation of the solar installation.

(*d*~~g~~) **Utility Notification**

No ~~large-scale ground- mounted solar photovoltaic installation~~*LSSF* shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer- owned generator. Off-grid systems shall be exempt from this requirement.

(*e*~~h~~) **Dimension and Density Requirements**

1. **Setbacks**

For large -scale ground-mounted solar photovoltaic installations, front, side and rear setbacks *from property lines to the solar array* shall be ~~as follows~~*a minimum of 100 feet*.~~:~~

~~(a) Front yard: The front yard depth shall be at least 50 feet;~~

~~(b) Side yard. Each side yard shall have a depth at least 50 feet;~~

~~(c) Rear yard. The rear yard depth shall be at least 50 feet.~~

Abutting towns: The LSSF shall be set back one hundred (100) feet from neighboring town lines, unless approval for a smaller setback is given by those towns;

Proximity to other LSSFs: New LSSFs shall be at least one mile from existing LSSFs. The distance between two LSSF installations shall be measured in a straight line from the perimeter of the existing solar array to the nearest perimeter of the proposed solar array. The Planning Board may waive this requirement if it determines that a closer array location would not adversely impact scenic, natural, or historic resources.

*2. **Size***

The size of the LSSF shall not exceed 20 (twenty) acres of solar array area, except that where the Special Permit Granting Authority determines it appropriate, the maximum size of the facility may be increased by an additional 2 1/2 (two and one half) acres if the Facility is sited on glacial till and sandy soil that is not heavily forested.

(*f*~~i~~) **Appurtenant Structures**

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

(g) ***Consultation with Other Departments and Entities.***
No building permit shall be issued and no application for such permits shall be accepted for construction, exterior alteration, relocation, or change in use unless a site plan has been endorsed by the SPGA, after consultation with other boards, including but not limited to the following: Building Inspector, Board of Health, Select Board, Historical Commission, Conservation Commission, Highway Department or DPW, Fire Department and Police Department. The SPGA may waive any or all requirements of site plan review for external enlargements of less than 10% of the existing occupied area.

(*h*~~j~~) **Design Standards**

1. **Lighting**

Lighting of solar photovoltaic installations shall be consistent with local, state, and federal law. Lighting of other parts of the installation, 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 solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

2. **Signage**

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with ~~a municipality's~~*the Town's* sign bylaw. A sign consistent with ~~a municipality's~~*the Town's* sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3. **Utility Connections**

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. Project Visibility.
The LSSF shall be designed to minimize its visibility, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, adding vegetative buffers to provide an effective visual barrier from adjacent roads and driveways, and to screen abutting dwellings. Large Scale Solar Facilities shall be effectively screened year-round from all abutting properties. Except for vehicular and pedestrian passageways and permitted signs, setback areas shall be modified only for additional screening. Where existing vegetation in the setbacks is insufficient to achieve year-round screening, additional screening shall be provided including, but not limited to, planting of dense vegetative screening, opaque fencing, berms, natural ground

elevations, land contouring, and/or placement of the solar panels and appurtenant structures on the site, all depending on site specific conditions.

Tree cutting within the required setback area shall not be permitted if it would reduce to any degree the effectiveness of the year-round screening.

If additional plantings are required for screening, a planting plan shall be submitted:

i. Showing the types, sizes and locations of material to be used which shall be subject to the approval of the Planning Board.

ii. Plantings shall be 4-6 (four to six)) feet in height at planting and staggered so as to fill the setback area and minimize the view of the arrays year round.

iii. Plantings shall incorporate a diversity of plant species native to New England for any screens and vegetative erosion controls. Use of exotic plants, as identified by the most recent version of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.

iv. At least 75% of the plantings shall consist of evergreens and shall be evenly spaced throughout the area of the setback area.

v. Planting of the vegetative screening shall be completed prior to connection of the installation. Plants shall be maintained and replaced if unhealthy by the owner/operator of the installation for the life of the facility.

*5. **Animal and Plant Management**.*

The open area of the site shall be seeded with a pollinator mix and maintained as bird and insect habitat to the maximum extent possible. Mowing may only be done to retain a natural functioning of the landscape. Plants shall be maintained and replaced as necessary by the owner of the LSSF for the life of the LSSF. The plan for vegetation control, and if applicable, animal control, shall be included in the Operation & Maintenance Plan. This requirement may be waived for underlying dual use or Agrovoltaics.

Herbicides, rodenticides, or any other pesticides may not be used to control vegetation or animals at a LSSF, except where herbicide use has been approved by the Special Permit Granting Authority for control of invasive species. In a dual-use LSSF, the agricultural operator, but not the LSSF operator, is exempt from this restriction.

*6. **Location***

To the maximum extent feasible, the facility should be located to minimize impacts to existing agricultural land and should be compatible with continued agricultural use. The facility shall be designed to minimize impacts to environmentally sensitive land. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LSSF or otherwise prescribed by applicable laws, regulations, and bylaws. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible.

*i. **Habitat Impacts**–To the maximum extent feasible, LSSFs should not be located on Permanently Protected Open Space, Chapter 61 lands, Priority Habitat and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage and Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP.*
*ii. **Wetlands Impacts**-The facilities, including the LSSF and access roads, shall meet the wetland buffer and river protection standards set forth by the Massachusetts Wetland Protection Act Regulations (310 CMR 10.0), and any additional local wetlands protection bylaws.*

*7. **Noise***
To minimize the impact of any continuous noise or vibrations, all point source noise generators must be located centrally within the solar array at a minimum of 150 feet from the property lines of any adjacent properties.

*8. **Height***
The height of the Photovoltaic array – as part of a LSSF – shall not exceed twelve (12) feet above finish grade unless a higher array is necessary for dual purpose agricultural use. Other structures associated with the Facility shall conform to the relevant sections of the Conway Zoning Bylaws.

*(i) **Stormwater Management.***
The Operations & Management Plan must include a Stormwater Management Plan. This plan must be submitted with the stamp and signature of a Registered Professional Engineer (PE) who is licensed in the Commonwealth of Massachusetts. The Stormwater Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:

1. The site's existing and proposed topography;
2. All areas of the site designated as open space;
3. A description and delineation of existing stormwater conveyances, impoundments, environmental resources on or adjacent to the site into which stormwater flows;
4. A delineation of 100-year flood plains, if applicable;
5. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
6. Existing and proposed vegetation and ground surfaces with runoff coefficients for each;
7. A drainage area map showing pre- and post-construction water shed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows, at a scale that enables verification of supporting calculations;
8. A recharge analysis that calculates pre- and post-construction annual groundwater recharge rates on the parcel;
9i. A description and drawings of all components of the proposed stormwater management system;

10. Soils information from test pits performed at the location of proposed Stormwater Management facilities, including soil descriptions, depth to seasonal high groundwater and depth to bedrock.

(j). **Safety and Environmental Standards**

1~~i~~. **Emergency Services**

The ~~large-scale solar photovoltaic installation~~*LSSF* owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

~~ii~~*2.* **Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large–scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

3. ***Glare***

The design of the LSSF shall prevent reflected solar radiation or glare from becoming a public nuisance or hazard to adjacent buildings, roadways, or properties. Designs may include, but not be limited to, deliberate placement and arrangement on the site, anti-reflective materials, solar glare modeling, and screening in addition to required landscaping.

(k)~~5~~. **Monitoring and Maintenance**

~~i~~*1.* **Solar Photovoltaic Installation Conditions**

The ~~large-scale ground-mounted solar photovoltaic installation~~*LSSF* owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

~~ii~~*2.* **Modifications**

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board. *At its discretion, the Planning Board may require a Site Plan Review and/or new Special Permit, depending upon the extent of the proposed modification.*

(l) ***Construction Monitoring****.*

The SPGA may require a third-party inspector, selected by and acting under the direction of the Building Commissioner or Planning Board, to be employed to monitor compliance with all approvals and conditions during the LSSF's construction at the applicant's expense.

(m) ***Annual Reporting****.*
The owner or operator of a LSSF shall submit an annual report demonstrating and certifying compliance with the Operation and Maintenance Plan, the requirements of this guide, and approvals granted hereunder, including but not limited to continued management and maintenance of vegetation, compliance with the approved plans and any permit conditions, continuation of liability insurance, and adequacy of road access. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The report shall be submitted to the Selectboard, Planning Board, Fire Chief, Building Commissioner, Board of Health, and Conservation Commission (if a wetlands permit was issued) no later than 45 days after the end of the calendar year.

(n) ***Transfer of Ownership***
In the event that the LSSF is sold, all municipal permits, conditions, and associated documentation shall be provided in both digital and hard copy format to the new owner, including all relevant documents requested by the Planning Board. The Planning Board must be provided with updated contact information for the new owner, including name, address, telephone number, and e-mail address. Authorities Having Jurisdiction, including local emergency personnel, must be provided with updated emergency contact information, including an emergency contact number that is staffed 24 hours a day. The new owner must abide by all conditions as detailed in the final permit. Any proposed changes to the project shall require approval as described in the Modifications section of this bylaw Section 9.3(k)(2)

(*o)*~~6.~~ **Abandonment or Decommissioning**

-1.~~i.~~ **Removal Requirements**

Any ~~large- scale ground-mounted solar photovoltaic installation~~*LSSF-* ~~which~~*that* has reached the end of its useful life or has been abandoned consistent with Section 9.*3(o)(2)*~~1(j)6~~. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

~~(a)~~*i.* Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

~~(b)~~*ii.* Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

~~(c)~~*iii* Stabilization or re-vegetation of the site as necessary to minimize erosion. The *Planning Board* may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
iv. Any site that was deforested for the LSSF shall be restored to encourage native plant growth, including the planting of seedlings, if necessary, to establish growth. The cost of plant replacement shall be incorporated into the financial surety stipulated in Section 9.3(o)(3).

~~ii~~*2*. **Abandonment**
Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the ~~solar photovoltaic installation~~*LSSF* shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the ~~large- scale ground-mounted solar photovoltaic installation~~*LSSF* fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

~~iii~~*3*. **Financial Surety**
Prior to commencing operation, ~~P~~*p*roponents of ~~large-scale ground-mounted solar photovoltaic projects~~*a LSSF* shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be acceptable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. *The financial surety shall be maintained by the developer for the lifespan of the facility, with annual certification notices from the surety company or bank for surety bonds submitted to the Special Permit Granting Authority.*

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