Zoning Article TBD, Solar Energy Systems

1 General

1.1 The purpose of this section is to regulate the installation of solar energy systems (SES) by providing standards for the placement, design, screening, operation, monitoring, modification, and decommissioning of such systems with the town. These standards are intended to ensure that solar energy systems are compatible with the Tiverton Community Comprehensive Plan, protect the public safety, and minimize impacts on scenic, natural, environmental, historical and agricultural resources. It is the underlying intent that 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.

1.2 Any SES that is proposed to be located on town-owned property, except on a parcel designated as Open Space, shall not be subject to the requirements of this Article but shall have an advisory Site and Design Plan Review conducted by the Technical Review Committee of the Tiverton Planning Board prior to issuance of a state or local building permit.

1.3 Ground Mounted SES where the total panel size is less than 16 square feet for minor accessory uses such as landscape lighting, electric fencing, or pool heating as determined by the Building Official, shall not be subject to the requirements of this Article. Minor accessory uses shall still be subject to all other applicable requirements of the Tiverton Zoning Code.

1.4 The construction and operation of all SES installations permitted under this Article shall be consistent with all applicable local, state and federal laws, ordinances, regulations and requirements, including, but not limited to, all applicable safety, construction, electrical and communications requirements including NFPA code where applicable. All structures and fixtures forming part of a solar energy installation shall be constructed and maintained in accordance with the most current Rhode Island State Building Code and Electrical Code, and any other applicable provision.

2 Definitions

2.1 Roof Mounted SES means a solar energy system mounted entirely on the roof of a legally permitted principal or accessory structure.

2.2 Ground Mounted SES means a solar energy system that is structurally appended to the ground and is not supported by any structure or building. There are five (5) categories of Ground Mounted solar energy systems.

   a. Accessory Ground Mounted SES - a system designed to generate no more than 125% percent of the energy that is necessary to support the commercial or residential use on the parcel where the solar array is located, not to exceed 40,000 square feet of solar lot coverage.

   b. Agricultural Accessory Ground Mounted SES – a system designed to generate no more 125% of the energy that is necessary to primarily support the agricultural operations being conducted on the parcel where the solar array is located, not to exceed 40,000 square feet of solar lot coverage.

   c. Impaired Site SES - A system located on a disturbed parcel that may include contaminated sites pending remediation, a remediated and restricted contamination site, recognized and designated brownfields, federal superfund designated site, and former legally operated landfills, quarries and gravel pits.
d. Principal Ground Mounted SES – Any Ground Mounted SES that does not meet the requirements of an Accessory, Agricultural Accessory, Impaired Site, or Solar Canopy Ground Mounted SES, not to exceed 440,000 square feet of solar lot coverage.

e. Solar Canopy SES - A Ground Mounted, open sided structure over a paved parking area where the primary roof cover is constructed of photovoltaic panels.

2.3 Solar Lot Coverage. The amount of upland area allowed to be occupied by ground-mounted solar panels and associated ground-mounted equipment, exclusive of fencing, but inclusive of inter-row and panel spacing. Solar lot coverage is calculated entirely separately from building lot coverage.

2.4 Abandoned SES. A solar energy system shall be considered abandoned when it fails to operate, or is not connected to a utility company’s interconnection, or end-user for 365 consecutive days after initial operations commence.

3 Zoning District Use Regulations

3.1 All Solar Energy Systems (SES) are permitted only in the zones as expressly referenced below. Zones so referenced are those delineated in the Zoning Map for the Town of Tiverton. In addition, the permissions granted below also are subject to all other conditions and requirements specified in this Ordinance, and in any other Ordinances, and any State or Local Laws and Regulations or Ordinances and Codes of the Town of Tiverton deemed by town officials to be applicable to the permitting, installation, maintenance, modification and disposal of SES. SES are permitted as follows:

4 Roof Mounted SES

4.1 Roof Mounted SES shall be permitted as a matter of right in all zones provided that:

   a. All Roof mounted SES shall be reviewed and permitted by the Building Official.

   b. The maximum size/area of roof-mounted solar installations must be approved by the Building Official based on the dimensional and structural limitations of the roof to which it is attached.

   c. Roof-mounted SES shall not exceed the building height limitations prescribed by the zoning district in which they are located.

   d. Solar shingles shall conform to all applicable Building Codes, as well as the manufacturer’s installation instructions.

   e. Except for the roof mounted solar installations in the Industrial Zone, the solar energy system shall be parallel to the roofline. In the Industrial Zone, panels may be set to a pitch not to exceed 30 degrees.

   f. On pitched roofs, solar panels shall be set back a minimum of 18 inches from all roof edges. On flat roofs, SES shall be set back from the edge at least two feet. Additional fire pathways shall be determined by the Building Official and Fire Marshal.

   g. Accessory battery storage units shall be located inside a structure that is permitted under all other provisions of the Tiverton Zoning Code.
h. The Building Official may require a structural analysis of the roof, prepared by a registered professional engineer, to establish that the structure is capable of supporting the additional load of the solar installation and that the mounting system/structure will adequately anchor the solar installation to the roof.

5 Ground Mounted SES Use by Zone

5.1 Ground Mounted SES are expressly prohibited in any Open Space Zone, the Stafford Pond Watershed Protection Overlay District, and the Primary protection area of the Nonquit Pond Watershed Protection Overlay District as described Article VIII, Section 2. Ground Mounted SES are permitted in the following Zones and under the following conditions:

a. Accessory Ground Mounted SES are permitted by right in the Industrial Zone, and by Special Use Permit in the Highway Commercial Zone.

b. Principal Ground Mounted SES are permitted by Special Use Permit in the Industrial Zone.

c. Impaired Site Ground Mounted SES are permitted by Special Use Permit in any zone, subject to the restrictions stated in Section 5.1

d. Agricultural Accessory Ground Mounted SES are permitted by Special Use Permit in any zone, subject to the restrictions stated in Section 5.1

e. Solar Canopy SES are permitted by right in the Industrial Zone and Casino Gaming and Entertainment Overlay District and by Special Use permit in the Highway Commercial Zone.

6 Ground Mounted SES General Requirements

6.1 Ground Mounted SES shall not be constructed, installed, modified or removed prior to the issuance of a building or demolition permit.

6.2 Ground Mounted SES and any 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 encumbered from the parcel.

6.3 All power transmission lines and utility connections from a Ground Mounted SES to any building or other structure shall be located underground, unless physical constraints to the land make underground lines impractical as determined by the permitting authority.

6.4 Ground Mounted solar installations shall not exceed 12 feet in height as measured from the grade of the ground surface to the highest point of the solar installation, including the top of any support structure or panel. Solar canopies shall not exceed the building height limit of the zone where located nor exceed the height of a primary structure located on the parcel.

6.5 To the maximum extent practicable, all cleared areas below and surrounding a Ground Mounted solar installation shall be maintained in a vegetated state as approved by the Planning Board to stabilize soils and prevent erosion. Solar canopies are exempt from this requirement.

6.6 The application of chemical herbicides and/or pesticides is prohibited during at any time including during construction and/or maintenance of the SES.
6.7 Proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary. Blasting as a means of site grading is specifically prohibited. No 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.

6.8 On-site drainage management and erosion and sedimentation control shall conform to the latest Rhode Island Stormwater Design and Installation Standards Manual, and the RI Soil Erosion and Sediment Control Handbook, as well as all applicable town regulations.

6.9 All Ground Mounted SES shall comply with Rhode Island DEM wetlands and wetlands buffer regulations.

6.10 Adequate access, parking and turnarounds, including between arrays, shall be provided for service and emergency vehicles for all Ground Mounted solar installations as determined by the Planning Board and Fire Marshal.

6.11 The maximum lot coverage including any Ground Mounted solar system shall conform to the requirements as stated in the Tiverton Zoning Code, Article V, Section 1 and/or Article IV Section 20 unless otherwise exempted in this article. The total proposed lot coverage shall be calculated by adding the solar lot coverage to any existing building lot coverage. In an Industrial zone, the total lot coverage where a Ground-Mounted SES is proposed shall not exceed 70 percent. This exception does not allow the non-solar building coverage to exceed 50 percent. Lot coverage of an Impaired Site SES is regulated in accordance with Section 9.3 of this article.

6.12 The minimum setback from any component of the Ground Mounted SES shall be 200 feet in every SES permitted zone except the Industrial Zone. In the Industrial Zone, the setbacks listed in Article V shall apply excepting where the parcel abuts a non-conforming use or a residential zone, either directly adjacent to or across from a public right-of-way. In such circumstances, a 200-foot setback shall apply to any required yard setback distance, (front, rear, or side) so constrained. Setbacks for solar canopies are regulated according to Section 11.2 of this article.

6.13 The SES shall be sited and screened to minimize the aesthetic effect of solar facilities on view sheds 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, except as provided otherwise herein, shall maintain a minimum 200-foot undisturbed vegetated buffer 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 six feet in height at the time of installation. In an Industrial Zone, no additional visual screening will be required unless the project abuts a non-conforming use, a public right of way, or another zone, either directly or across a public right of way, in which case the 200-foot vegetated buffer shall apply to any yard (front, side, rear) so constrained. The Planning Board may alter the setback in the Industrial zone where any existing building provides sufficient screening to minimize the aesthetic effect of solar facilities on view sheds within the community. The required vegetated buffer shall be permanently marked on the parcel by bounds markers or other marker type as agreed by the Planning Board so as to allow for monitoring of the required buffer. The Planning Board may alter this width or require additional screening elements dependent on site characteristics such as slope, wetland area, existing buffering, etc. Solar canopies are exempt from this requirement.

6.14 No Ground Mounted SES and the required screening shall impair or impede view sheds of the Sakonnet River or Seapowet Marsh from any public right of way or parcel not owned by the applicant.

6.15 The required vegetative buffers are to be composed of plant materials listed in the University of Rhode Island's native plant database. The Planning Board shall require an independent review, at
the applicant’s expense, of the visual screening/buffering plan by a registered Rhode Island Landscape Architect must demonstrate that the landscape buffer is adequate to screen the solar energy facility year round consistent with the standard as set forth in section 6.13.

6.16 Required visual screening shall be maintained for the life of the SES. 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 official.

6.17 The applicant shall be required to install an eight-foot high chain link fence around the perimeter of the SES. The fence shall be installed a minimum of eight inches off the ground to allow small animals to pass underneath. Newly installed fences shall be flagged for at least six months to protect both fencing and wildlife. No signs shall be installed on the perimeter security fence except a sign(s) that identifies the installation name, address, emergency contact information and trespassing, warning, danger signs to protect public safety. A 24-hour emergency contact number shall be included. No sign shall exceed four square feet in area. 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.

6.18 Lighting of a Ground Mounted SES shall be consistent with all applicable state or local laws and regulations or Ordinances and Codes of the Town of Tiverton. 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.

6.19 All SES 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.

6.20 Construction of the SES shall only be allowed between 8:00 a.m. and 5:00 p.m. and shall not be allowed on Saturday, Sunday, and any legal federal or state holiday.

6.21 No components of a Ground Mounted SES shall be located within any Rhode Island Department of Environmental Management (RI DEM) Wellhead Protection Area. The setback for components of a Ground Mounted SES shall be a minimum of 500 feet from any public well and 200 feet from any private well.

6.22 Where a Special Use Permit is required, The Zoning Board application shall require an approved plan as determined by the Planning Board; and zoning relief, if granted, shall not deviate from the approved plan.

7 Accessory Ground Mounted Solar Energy Systems

7.1 Accessory Ground Mounted SES shall be reviewed and permitted under Article XX, Development Plan Review excepting that all SES shall be subject to both Site Plan Review and Design Review. For the purposes of determining thresholds to determine upper and lower limits for both Site Plan and Design Review, projects less than 10,000 square feet of solar lot coverage shall be considered under the lower threshold limits and projects above 10,000 square feet of solar lot coverage shall be considered in accordance with the upper threshold regulations.

7.2 At the time of application, the applicant must demonstrate that any Ground Mounted Accessory SES has been designed to produce no more than one hundred and twenty-five (125) percent of the energy that is necessary to support the existing or currently proposed use of the parcel, and not to exceed
40,000 square feet solar lot coverage. Where there is an existing use, the applicant shall provide the energy consumption documentation for the use(s) for the previous three-year period. For all new parcels where ground mounted accessory solar is proposed, the applicant shall provide an estimate of energy usage prepared and certified by a qualified engineer or the utility.

8 Principal Ground Mounted Solar Energy Systems

8.1 In accordance with Tiverton Zoning Code Section V., Article 2b, a Principal Ground Mounted SES may be permitted in the Industrial Zone on a vacant parcel or a parcel where there is an existing primary use.

8.2 Principal Ground Mounted SES shall be reviewed and permitted concurrently under Article XX, Development Plan Review and as a Major Land Development project in accordance with the Tiverton Land Development and Subdivision Regulations. All Principal Ground Mounted SES shall be subject to both Article XX Site Plan Review and Design Review in accordance with the upper threshold requirements regardless of size.

8.3 Forested areas shall not be clear-cut for the purpose of installing solar installations. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the SES, and shall not exceed twenty-five (25) percent of the existing tree and vegetation cover in existence from a date three years prior to the date of application. The applicant shall have the burden of proof in meeting this requirement.

9 Impaired Site Ground Mounted Solar Systems

9.1 This section is intended to promote the development of solar energy systems on parcels previously impaired by certain uses in order to catalyze property remediation and to direct solar energy systems away from forested areas, prime agricultural lands, and properties with high intrinsic value under another use scenario. They include:

   a. *Remediated and restricted contamination site*: A remediated and restricted contamination site is a property (1) that has been identified and confirmed by RIDEM as having contained a hazardous material contamination; (2) on which remediation activities were conducted to the satisfaction of RIDEM as documented within a "Letter of Compliance" or an "Interim Letter of Compliance", and (3) for which RIDEM has required the use of the property to be restricted through an Environmental Land Use Restriction.

   b. *Contaminated site pending remediation*: A contaminated site pending remediation is a property that has been identified and confirmed by RIDEM as containing a hazardous material contamination through issuance of a "Letter of Responsibility", but which has not yet been remediated to the satisfaction of RIDEM. The intended outcome of permitting a solar energy system on a site pending remediation is to offset the cost of remediation by allowing a beneficial use of the property to occur.

   c. Prior legally or legal non-conforming operated landfills, brownfields, quarries, and gravel pits where the use has been permanently abandoned. Such sites shall be determined and approved by the Tiverton Town Council, after an advisory opinion from the Planning Board is submitted. The burden of proof of any parcel's previous legal operating status shall be the responsibility of the applicant. To be included, it must be demonstrated that the parcel is not suitable for redevelopment in accordance with the use table of the zoning district where it is located.
9.2 Applications for an Impaired Site SES shall include, in addition to the requirements set forth by the Tiverton Planning Board and other requirements of this Article, the following, based on the type of contaminated site on which the system is proposed:

a. Systems proposed on a contaminated site pending remediation shall submit: The associated "Letter of Responsibility" and "Remedial Approval Letter" from RIDEM, and all applicable attachments or appendices; a copy of any environmental land use restriction (ELUR) required by RIDEM to be imposed on the contaminated site(s) along with a narrative explaining the content of such restriction; confirmation from RIDEM that a solar energy system is an acceptable use for the contaminated site(s); and a site plan and associated materials delineating the extent of the contamination previously or currently existing on the site(s) and the extent of disturbance that will be required to perform the approved remediation activities, including square footage calculations of said areas compared to the total area of the subject site(s).

b. Systems proposed on a remediated and restricted contamination site(s) shall submit: The associated "Letter of Compliance" or "Interim Letter of Compliance" from RIDEM; a copy of any existing environmental land use restriction (ELUR) required by RIDEM along with a narrative explaining the content of such restriction Written confirmation from RIDEM that the proposed contaminated site solar energy system is consistent with the requirements for maintaining compliance; and a site plan and associated materials delineating the extent of the remediation activities and any clearing that was necessary due to remediation activities, including square footage calculations of contaminated areas compared to the total area of the subject site(s).

9.3 Impaired Site SES in any zone other than the Industrial Zone shall not occupy more than one hundred fifty (150) percent of the actual contaminated area on the site as recognized by the Rhode Island Department of Environmental Management. For Impaired parcels approved by the Tiverton Town Council, the SES shall not occupy more than one hundred fifty (150) percent of the area determined to be unsuitable for redevelopment in accordance with the zoning table. Any calculation so submitted shall be verified by the town’s engineer.

9.4 Impaired Site SES shall be reviewed and permitted concurrently under Article XX, Development Plan Review and as a Major Land Development project in accordance with the Tiverton Land Development and Subdivision Regulations. All Impaired Site SES shall be subject to both Article XX Site Plan Review and Design Review in accordance with the upper threshold requirements regardless of size.

9.5 In granting approval for an Impaired Site SES, the Zoning Board must make the following additional findings of fact in granting a special use permit:

Permitting use of the parcel for an Impaired Site Solar Energy Systems will:
Allow remediation of a contaminated site by offsetting the cost of such remediation and allowing a beneficial use of the property to occur; or allow an already remedied or otherwise constrained property to be used for renewable energy generation, directing solar energy systems away from less desirable areas, such as forested areas and prime agricultural lands; that the unique conditions of the parcel render it unsuitable for redevelopment in accordance with the use table of the zone where it is located; and that the establishment of the proposed SES will not prevent the normal and orderly use, development or improvement of adjacent properties or uses permitted in the district.
10 Agricultural Accessory Ground Mounted Solar Systems

10.1 It is the intent of this section to specifically provide an offset of the energy requirements used in conducting agricultural operations on recognized farmland. The applicant must demonstrate regular and customary energy use is needed to operate farm machinery, equipment, and structures solely dedicated to agricultural use on the subject parcel.

10.2 An eligible property consists of a single parcel that meets the following standards:

a. Currently enrolled in the RI DEM Farm, Forest and Open Space Program and accepted by the Town of Tiverton Tax Assessor.

b. Has minimum of five acres exclusively and actively devoted to agricultural and/or horticultural use where such acreage shall not be decreased by the installation of the SES.

c. Has a current approved USDA Farm Conservation Plan.

d. Has filed a U.S. Internal Revenue Form 1040 with the Internal Revenue Service, has a State of Rhode Island farm tax number, and has earned at least two thousand five hundred dollars ($2,500) gross income on farm products in either of the preceding two (2) years.

10.3 At the time of application, the applicant must demonstrate that any Ground Mounted Agricultural Accessory SES has been designed to produce no more than one hundred and twenty-five (125) percent of the energy that is necessary to support the existing the agricultural operations on the parcel including agricultural buildings and accessory structures. Where there is an existing residential use on the parcel, the calculation may include the usage for one single-family residence and its associated accessory structures. The applicant shall provide the energy consumption documentation for the use(s) for the previous three-year period.

10.4 Agricultural Accessory Ground Mounted SES shall be reviewed and permitted under Article XX, Development Plan Review excepting that all SES shall be subject to both Site Plan Review and Design Review. For the purposes of determining thresholds to determine upper and lower limits for both site plan and design review, projects less than 10,000 square feet of solar lot coverage shall be considered under the lower threshold limits and projects above 10,000 square feet of solar lot coverage shall be considered in accordance with the upper threshold regulations.

10.5 Once permitted, no subdivision of the parcel is allowed until the SES is decommissioned and removed, nor is any further development of the parcel excepting that which supports the agricultural use.

10.6 Siting of the SES shall avoid USDA Prime Farmland where possible.

10.7 Dual use of the solar lot coverage area is permitted in conjunction with agricultural production provided that the agricultural maintenance plan is consistent with all stormwater and erosion control requirements.

11 Solar Canopy

11.1 Solar Canopies shall only be erected above a paved or permeable parking area. Loose gravel is not considered a permeable paving surface. The solar canopy and its associated paved areas shall meet all state and local stormwater requirements.

11.2 Setbacks for Solar Canopies shall be as described in in Article V, Section 1, Minimum Lot Dimensions and Setbacks.
11.3 Solar Canopy SES shall be reviewed and permitted under Article XX, Development Plan Review excepting that all SES shall be subject to both Site Plan Review and Design Review. For the purposes of determining thresholds to determine upper and lower limits for both site plan and design review, projects less than 10,000 square feet of solar lot coverage shall be considered under the lower threshold limits and projects above 10,000 square feet of solar lot coverage shall be considered in accordance with the upper threshold regulations.

11.4 Canopies that service gasoline filling stations shall not be considered Solar Canopies; the addition of solar panels on the roof of such a structure shall be regulated under Section 4 of this Article.

12 Maintenance Plan

12.1 All Ground Mounted SES shall submit an operation and maintenance plan that details how the solar energy system will be operated and maintained in good condition and, at a minimum, shall require:

   a. The property owner/operator shall be responsible maintaining the installation in good physical condition, including equipment, perimeter fencing and structural repairs. Malfunctioning or inoperable equipment shall be removed from the property.

   b. The property owner/operator shall be responsible for maintenance of all site access, perimeter roadways, and inter-row spacing to allow for the passage of personnel and maintenance or emergency vehicles.

   c. The property owner/operator shall be responsible for maintenance of ground cover and buffer plantings in accordance with the landscape plan. Dead or diseased plant materials shall be removed and replanted according to the landscape plan as soon as seasonal weather permits.

   d. Any other maintenance that may be needed to address town requirements imposed due to the unique site conditions.

12.2 There shall be an annual inspection of the Ground Mounted SES to ensure compliance by the Building Official or his designee. Any costs associated with inspection, enforcement, and compliance shall be the responsibility of the property owner/operator.

12.3 An Emergency response plan shall be developed and approved by the Tiverton Fire Marshal including all means of de-energizing the Ground Mounted SES. The operator shall provide the name of an authorized contact person throughout the life of the installation. Any change to the contact person shall be delivered in writing to the Tiverton Town Clerk on or before the transfer of authority.

12.4 The Maintenance Plan shall be reviewed and approved concurrently with the application and recorded as part of the approved land plan.

13 Decommissioning

13.1 When any Ground Mounted SES is scheduled to be decommissioned, operations ceased, or the use abandoned, the property owner/operator shall notify the Building Official of the proposed date of discontinued operations and submit written a plan for removal consistent with the requirements of this section. The SES shall be physically removed no more than one hundred eighty (180) days after the discontinued, ceased, or abandoned operations. Decommissioning shall consist of:
a. Physical removal of the entire solar energy system to include all solar energy components, mounting systems, structures, equipment, security barriers and transmission lines from the site.

b. Disposal of all solid and hazardous waste, if any, in accordance with federal, state and local disposal regulations.

c. Stabilization and revegetation of the site as determined by a Rhode Island licensed landscape architect to minimize erosion.

d. Any earth disturbance as a result of the removal of the SES shall be graded and reseeded, if no other viable use of the site has been approved at the time of decommissioning.

13.2 Any and all costs related to removal and disposal of SES structures, equipment, security barriers, fencing, transmission lines, restoration of the land, restoration of soils, restoration of vegetation, drainage and all costs associated with inspection and enforcement shall be the responsibility of the property owner/operator.

13.3 If decommissioning has not been completed within one hundred eighty (180) days of the proposed date of decommissioning, operations ceased, or the use abandoned, the town shall give written notice to the property owner and/or SES owner and operator to accomplish the decommissioning within thirty (30) days. If the decommissioning has not been completed within thirty (30) days of said written notice by the Town, the Town and/or the town's representative shall have the authority to enter the property and decommission the SES, charging the property owner and/or SES owner and operator for all costs and expenses, in excess of any financial guaranty, including reasonable attorney's fees for collection. The Town shall have the right to impose a lien for all such charges.

14 Financial Surety

14.1 Project approval of any Ground Mounted solar energy system in excess 2,000 square feet of solar lot coverage shall contain a condition of approval establishing a financial guarantee for the decommissioning and removal of the system. The Planning Board shall require the applicant to establish and maintain in full, a financial security instrument covering the Ground Mounted SES from commencement of installation through its complete decommissioning. Such instrument may be an escrow account, or cash or surety bond. The security must be sufficient to cover the complete cost of removal in the event the Town or its contractor must remove the solar energy system. Where a financial guaranty is required, no building permit for the SES shall be issued until the Town of Tiverton has received the financial surety.

14.2 The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, licensed in the State of Rhode Island. The cost estimate shall include a mechanism for estimating the anticipated increased costs over the lifespan of the facility; with a minimum 2.5% estimated annual increase. The total amount of security shall be based on the estimated cost of removal of the SES at the end of the useful life. The Planning Board shall refer the applicant's cost estimate to one of the town's consulting professionals for review and comment. The owner shall be responsible for the cost of the review. After review of the applicant's estimate and the consultant's comments, the Planning Board shall have the authority to set an increase in the cost estimate.

14.3 The property owner/operator shall annually submit an affidavit to the Administrative Officer of the Planning Board certifying that the SES remains in operation and that the required financial security continues in force and shall remain in place until the system is removed. Proof of the financial
security and shall be attached to the affidavit. The Town Administrator and the Administrative Officer of the Planning Board shall be listed as a necessary notified interested entity upon the default, cancellation, or expiration of any security instrument.

14.4 Terms of the release of the financial security shall be specified at the time of approval and may include a partial holdback, in amount determined by the Planning Board, for period not to exceed two years post removal to ensure compliance with stormwater and revegetation requirements.

Effective Date: