

**Town Of Clifton, Maine**  
**Solar Energy Systems Ordinance**  
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## 1. Purpose and Intent:

This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001, to protect the health, safety, and welfare of the Town of Clifton and its residents. This Ordinance shall be known as the "Town Of Clifton, Maine Solar Energy System Ordinance."

## 2 - Definitions & Abbreviations

**Accessory Solar Energy Systems (A-SES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power: (a) primarily; or (b) solely for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted, solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

**Electrical Equipment:** Any device associated with a solar energy system, such as an outdoor electrical unit/control box, which transfers the energy from the solar energy system to the intended location.

**Electricity Generation (production, output):** The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

**Battery Energy Storage System (BESS):** A device that stores energy for later consumption, utilizing various technologies, that is charged by a connected solar system or grid energy. It may be a container or building type. The stored electricity is consumed after sundown, during energy demand peaks, or during a power outage.

1. **Private-Scale BESS** shall be to serve the principal use only and not the electric power grid except wherein power transfer to the grid is required as a function of the system.
2. **Utility-Scale BESS** shall be designed with the primary purpose to serve an off-site user such as the electric power grid or another use on a non-adjacent parcel regardless of storage capacity.
3. **Standalone BESS** shall be designed to take electricity directly from the grid when the supply is high and send it back when required, it shall be designed with the primary purpose to serve an off-site user such as the electric power grid or another use on a non-adjacent parcel regardless of storage capacity.

**Non-Participating Parcel:** A parcel of real estate that is neither a Project Parcel nor a Participating Parcel nor a Public or Private Way.

**Participating Parcel:** A parcel of real estate that is not a Project Parcel but is subject to a Mitigation Waiver. A complete copy of the Mitigation Waiver must be provided to the Planning Board and filed with the Penobscot County Registry of Deeds.

**Photovoltaic (PV) System:** A solar energy system consisting of photovoltaic cells, made with semiconducting materials, or any other materials, which produces electricity [in the form of direct current (DC)] when they are exposed to sunlight. A typical PV system consists of PV panels (or modules) that combine to form an array. Other system components may include mounting racks and

hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

**Power:** The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc., in Alternating Current (AC) and/or Direct Current (DC).

**Principal Solar Energy Systems (P-SES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground, or roof mounted, solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and other appurtenant structures.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the photovoltaic system.

**Solar Array:** Multiple solar panels combined to create one system.

**Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solar Energy System (SES):** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted, and may be of any size as follows:

1. **Roof Mounted A-SES** is one affixed to any legally permitted structure.
2. **Ground Mounted A-SES** is one whose solar panels are affixed to poles or frameworks mounted directly to the ground.
3. **Small-Scale P-SES** is one whose rated nameplate capacity is less than 1 MW.
4. **Medium-Scale P-SES** is one whose rated nameplate capacity is between 1 and 5 MW.
5. **Large-Scale P-SES** is one whose rated nameplate capacity is 5 MW or more.

For Additional Definitions Not Specific to this Ordinance refer to Chapter 18 in the Town of Clifton Land Use Ordinance. In any and all cases where a definition in this ordinance conflicts with a definition in any other Clifton ordinance the most restrictive definition will apply.

**Common Abbreviations.**

AC - Alternating Current

A-SES - Accessory Solar Energy Systems

BESS - Battery Energy Storage System

CEO - Clifton, Maine Code Enforcement Officer

DC - Direct Current

**kW** - Kilowatts  
**kWh** - Kilowatt-hours  
**LUO** - Clifton, Maine Land Use Ordinance  
**MW** - Megawatts  
**MWh** - Megawatt-hours  
**PB** - Clifton, Maine Planning Board  
**P-SES** - Principal Solar Energy Systems  
**PV** - Photovoltaic  
**SB** - Clifton, Maine Select Board  
**SES** - Solar Energy System  
**W** - Watts

### **3 - Applicability; Site Permit and Operational License Required:**

**3.1.** This section of the Ordinance applies to all Solar Energy Facilities proposed to be constructed after the effective date of the Ordinance, including all listed in section 4 requiring a Site Plan Review other than those listed as exempt in the following subsection. See definitions.

**3.1.1.** Solar Energy Facilities legally constructed or permitted prior to the effective date of this Ordinance shall not be required to meet the Site Permit requirements of this Ordinance, except that any modification to an existing Solar Energy System that materially alters the size, type or number of Solar Collectors or other equipment shall require a Site Permit under this Ordinance. This requirement for a site permit does not apply to those facilities listed as exempt in section 3.1.3.

**3.1.2.** All Solar Energy Facilities listed in Section 4 requiring a Site Permit Review must obtain a Site Permit before beginning construction of a Solar Energy System.

**3.1.3.** The following solar energy facilities are exempt from this ordinance provided they meet all requirements of this article.

**3.1.3.1.** Roof mounted arrays on any legally permitted residential, commercial, or accessory structure.

**3.1.3.2.** Building integrated solar arrays. (shingles, hanging solar, canopy, etc.)

**3.1.3.3.** Repair or replacement of array components that do not enlarge the area of the existing array.

**3.1.3.4.** Arrays on cellular towers.

**3.1.3.5.** Ground or pole mounted solar lighting, cameras, or similar applications where the size of the solar panel is less than 1 sq foot.

**3.2.** All P-SES and BESS Solar Energy Facilities listed in Section 4 requiring a Site Permit Review must get an Operational Permit before beginning operation of a Solar Energy System and/or to continue operation of a system requiring an Operational Permit.

**3.2.1.** P-SES Solar Energy Facilities constructed prior to the effective date of this Ordinance shall be required to obtain an Operational Permit pursuant to this Ordinance within Sixty (60) days of its effective date.

**3.3.** The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner of a P-SES. Approval of a Site Permit and Operational Permit by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner to comply with this Ordinance. Persistent violations may lead to decommissioning and removal of the P-SES.

#### 4. Growth Management Area Use Table

5.

	GMA1	GMA1A	GMA1B	GMA2	GMA3	Shoreland Management	Resource Protection
<b>Accessory Use (A-SES)</b>							
<b>Rooftop</b>	Y	Y	Y	Y	Y	Y	Y
<b>Ground Mounted</b>	Y/SPR	Y/SPR	Y/SPR	Y/SPR	Y/SPR	Y/SPR /Note 1	N
<b>Principal Use (P-SES)</b>							
<b>Small-Scale</b>	Y/SPR	N	Y/SPR	Y/SPR	Y/SPR	N	N
<b>Medium- Scale</b>	Y/SPR	N	Y/SPR	V/SPR	Y/SPR	N	N
<b>Large-Scale</b>	Y/SPR	N	Y/SPR	Y/SPR	Y/SPR	N	N
<b>BESS</b>							
<b>Private- Scale</b>	Y	Y	Y	Y	Y	Y/Note 2	Y/Note 2
<b>Utility-Scale</b>	Y/SPR	N	Y/SPR	Y/SPR	Y/SPR	N	N
<b>Standalone</b>	Y/SPR	N	Y/SPR	Y/SPR	Y/SPR	N	N
Y=Allowed; N=Prohibited; SPR=Site Permit Review Required;							

4.1. Note 1 - Allowed with the following exception: Ground Mounted A-SES in a Shoreland Zone shall be setback a minimum of one hundred (100) feet, horizontal distance, from the normal high-water mark.

4.2. Note 2 - Allowed with the following exception: Private-Scale BESS shall be mounted indoors, and have secondary containment.

#### 5. Standards and Requirements for Accessory Solar Energy Systems

- 5.1.** Roof and Building-mounted A-SES and equipment are exempt from permitting and operational licensing per **3.1.1** of this ordinance.
- 5.2.** Ground Mounted A-SES is one whose solar panels are affixed to poles or frameworks mounted directly to the ground.
- 5.3.** The location of all Ground Mounted A-SES shall meet the setback requirements of the growth management area in which it is located, as found in the Town of Clifton Land Use Ordinance.
- 5.4.** To reduce light pollution Non-Reflective or Anti-Glare PV Panels shall be used whenever possible. Reused/refurbished PV Panels with little or no Non-Reflective or Anti-Glare properties shall be positioned as to reduce visibility from any non-participating parcel.
- 5.5.** Maximum effort must be taken to recycle nonfunctional PV Panels and BESS in order to ensure they do not become a burden to the environment. All PV cells contain certain amounts of toxic substances; therefore, deposit/disposal of PV Panel and BESS debris within the Town of Clifton is prohibited.
- 5.6.** All wiring shall be installed in compliance with the latest edition of the photovoltaic systems standard of the National Electric Code and National Fire Protection Association as adopted by the State of Maine.
- 5.7.** Requirements:
  - 5.7.1.** All ground mounted A-SES require the submittal of a permit application to the Code Enforcement Officer in accordance with the Town of Clifton Land Use Ordinance.
    - 5.7.1.1.** Proof that abutting property owners have been notified by certified mail by the applicant at least fifteen (15) days prior to the initial Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, date and place of the Board or CEO consideration.
    - 5.7.1.2.** Proof that reflected glare will not have a significant adverse impact on any roadway, road intersection, or residence other than the property on which the solar array is located.
      - 5.7.1.2.1.** If evidence indicates the above adverse impact, the Planning Board may require boundaries of any ground mounted A-SES to have fencing or a vegetated buffer. A vegetated buffer may additionally be required along any fencing that may be erected. Existing vegetation shall be used to satisfy these

requirements where possible, and additional vegetation must be planted where necessary. No vegetation or fencing shall interfere with a required clear sight at any driveway or intersection.

## **6. Standards for Principal Solar Energy Systems**

- 6.1.** Vegetation, 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 ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances. Ground-mounted facilities shall minimize mowing to the extent practicable. Native, pollinator-friendly seed mixtures shall be used. Herbicide and pesticide use shall be prohibited without written authorization by the CEO if he/she has deemed the request is necessary and appropriate. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system. Contract grazing is allowed if the applicant wishes to use it for vegetation control.
- 6.2.** Visual impact: Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties or other appropriate measures, including adherence to height standards and setback requirements and to reduce glare in the direction of abutting or neighboring properties or streets.
- 6.3.** Fencing shall be installed as required by the latest edition of the National Electrical Code for ground mounted solar energy systems in accordance with the size of the proposed system.
- 6.4.** To mitigate solar panel glare, solar panels with anti-reflective coatings shall be used. If the results of a Glint and Glare assessment shows an unreasonable off-site impact to abutting property owners' established dwellings or established roadways, fencing, and/or a mature vegetative buffer will be planted to provide screening. See 7.3.9. requiring a Glint and Glare assessment.
- 6.5.** Signage: Signage shall be placed on all access points from public roads to identify the owner of the P-SES and provide a twenty-four-hour emergency contact phone number and equipment specification information. As required by the National Electric Code, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- 6.6.** Roads: A P-SES owner shall maintain a road for access to, and within the facility to accommodate emergency vehicles. Whenever a "Shared Use Road" is used to access the P-SES a written agreement between landowners and the facility owner for road maintenance must be



agreed upon and presented to the Planning Board in conjunction with the site permit application. Roads shall be kept in accordance with Chapter 7 of the Town of Clifton Land Use Ordinance where applicable.

- 6.7. Operations and maintenance plan: The project proponent shall submit a plan for the operation and maintenance of the large-scale ground mounted solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.
- 6.8. Battery Energy Storage System (BESS): There are many types of BESS technologies which may be Private or Utility-Scale installations. They must meet the latest edition of the National Fire Protection Association NFPA 111, NFPA 855, NFPA 1 Fire Code Chapters 11 and 52, and NFPA 70 Electrical Code. Site plans shall clearly indicate locations of BESS, access ways and signage identifying the owner and a 24-hour emergency contact phone number. Applications shall include a means of disabling the system in the event of an emergency. All BESS shall be included as a separate section in the Fire Prevention and Emergency Response Plan as required in Clifton's Land Use Ordinance as part of the Site Plan Application.

## **7. Site Permit Application Requirements and Standards**

- 7.1. Approval. Approval of an SES application via this ordinance is conditional upon compliance with all other state and local laws and ordinances, including but not limited to, the Town of Clifton Land Use Ordinance, Maine Natural Resources Protection Act, Maine Site Location of Development Law, and Maine Storm Water Management Law.
- 7.2. Administrative procedures, site plan requirements, setbacks, permits, and operational permitting shall be done as detailed in the Town of Clifton Land Use Ordinance.
- 7.3. Additional submissions:
  - 7.3.1. Name, address, phone number, and signature of the project applicant/owner, as well as all the property owners, demonstrating their consent to the application and use of the property for the solar energy system.
  - 7.3.2. If the applicant/owner will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the owner, landowner, and any other responsible party with regard to the SES and the life of the agreement.

**7.3.2.1.** A copy of this agreement shall be filed in the Penobscot Registry of Deeds. Additionally, if the owner and should change during the life of the SES a copy of the transfer agreement, including acknowledgment that the new owner agrees to abide by all restrictions, requirements, and financial payments contained in the original application and original operational permit shall be filed at the Penobscot Registry of Deeds and with the Town of Clifton Code Enforcement Officer.

**7.3.3.** A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems and inverters that are to be installed, including a one or three-phase electrical diagram detailing the solar photovoltaic installation, associated components and electrical interconnection methods. A final equipment specification sheet shall be submitted prior to the issuance of the site or building permit.

**7.3.4.** Proof of Interconnection and Power Purchase.

**7.3.4.1.** Proof of the agreement and connection arrangement with the transmission system, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.

**7.3.4.2.** A description of the energy to be produced and to whom it will be sold.

**7.3.5.** Operations statement, including the approximate date of commencement of power generation to grid.

**7.3.6.** Frequency and rated db level of sound production from transformer banks, inverters, and other noise producing elements of the project during standard operation.

**7.3.7.** Property and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, trimming vegetation and road maintenance.

**7.3.8.** List of all abutting property owners with addresses.

**7.3.9.** Glint and Glare: If evidence indicates probable significant adverse impacts due to glint and glare the Planning Board may require the solar energy system owner to conduct and submit a Glint and Glare assessment.

**7.3.9.1.** The owner will select the individual or business to conduct the Glint and Glare assessment and submit to the PB the qualifications of the selected individual or

business. The PB shall review the qualifications and accept or reject the suggested individual or business.

**7.3.10. Decommissioning Plan Showing the Following:**

**7.3.10.1.** How the plan will provide for the removal from the project site and lawful disposal or disposition of all elements of the SES to a clear depth of at least six (6) inches below any element of the project, including panels, mounting hardware, electrical lines above and underground, security barriers, electrical equipment, cement bases and pads, and any other equipment. Disposal shall be in accordance with all local, state, and federal regulations.

**7.3.10.1.1.** The plan will detail the proposed method of disposal and or recycling of materials, including steel, aluminum, copper, silver, heavy metals, glass, and any and all hazardous materials as defined by the Maine DEP and the Federal EPA.

**7.3.10.2.** A clear plan for stabilization and revegetation of the site to prevent erosion. The plan should include restoration of native, pollinator friendly seed mixtures to provide ground coverage as needed. This plan shall be reviewed and approved by a currently certified contractor showing approval of the stabilization and re-vegetation plan.

**7.3.10.3.** The decommissioning plan must include an itemized estimate of all costs associated with the completion of section 7.3.10 of this Ordinance.

**7.3.10.4. Performance Guarantee - Decommissioning Plan Financial Requirements:** As part of the application process for a Commercial Solar Energy System project the applicant shall establish and fund a performance bond to cover the projected costs of removal as detailed under section 7.3.10 of the decommissioning plan in the project application.

**7.3.10.4.1.** The performance guarantee will be equal to 150% of the estimated decommissioning plan cost.

**7.3.10.4.2.** Forms of Guarantee: Performance bond, surety bond, interest bearing escrow account, or other form of financial assurance as may be acceptable to the Board of Selectmen.

**7.3.10.4.3.** Payee: The Town of Clifton shall be the named holder of the account with the Applicant. Town of Clifton will be the only entity that can release funds from this account and will be used by the Town to perform decommissioning in the event of abandonment of the project by the owner.

**7.3.10.4.4.** Financial assurance provisions must be noted on the final site plan and must be transferred with the development if it is sold. In addition to update of information at the Registry of Deeds, written notice must be sent to Town of Clifton.

**7.3.10.4.5.** Monetary amount of Guarantee: The total amount of surety as outlined in 7.3.10.4.1 of this Ordinance is due prior to the issuance of a building or site permit.

**7.3.10.4.6.** Return of Decommissioning Fund: The principal and any earned interest shall be returned to the owner of record when the decommissioning is completed unless the municipality has found it necessary to draw on the account. In the latter case, the residual from the account, if any, and its earned interest will be returned to the owner proportionately.

**7.3.10.4.7.** Every 5 years from the date of permit issuance during the lifespan of the project the owner of the facility shall provide the Planning Board with a revised decommissioning plan cost. If the cost has increased more than 5% then the owner of the facility shall provide additional security in the amount of the increase using the formula in 7.3.10.4.1.

## **8. Application, Permitting, Operational Permit Fees:**

**8.1.** See Town of Clifton Fee Schedule.

## **9. Expiration of Site Permit Approval and SES Operational Permit:**

**9.1.** If on-site construction of a SES is not significantly commenced within one year of the date of issue of a Site Permit, the Site Permit shall automatically lapse and become null and void, and the Applicant must reapply. If an approved SES is not completed within 30 months after a Site Permit is issued, then the Site Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause as listed in 9.2, grant an extension of up to 1 year for the start and/or completion of construction, provided such request is submitted prior to the lapse or expiration of the Site Permit. In the case the project is entered in the state or federal court process, (not as a result of a local, state, or federal agency enforcement action), after Planning Board approval, the timeline will begin the date of the final adjudication.

- 9.2.** The 30 month completion of construction deadline shall be extended on a day-for-day basis for each day of Excusable Delay. "Excusable Delay" means any delay that is caused by one or more of the following:
- 9.2.1.** An event of Force Majeure.
  - 9.2.2.** A delay in receiving critical energy equipment that is beyond control of the Project.
  - 9.2.3.** The applicable interconnection facilities having not been energized and back feed power has not been made available, for reasons that are beyond the control of the Project.
  - 9.2.4.** Legal or regulatory challenges, actions, or similar delays beyond the control of the applicant.
- 9.3.** An SES Operational Permit issued under this Ordinance shall expire five years after the date it is issued, unless earlier terminated. Early termination can include but is not limited to nonpayment of the annual fee for an Operational Permit.
- 9.3.1.** To be issued a new Operational Permit good for another 5 years, the owner of an SES shall provide a list of any changes to previously submitted documentation for the original SES Site Permit and/or Operational Permits as well as an updated decommissioning plan as described in 7.3.10.
    - 9.3.1.1.** Failure to provide the above listed documentation is grounds for immediate termination of an Operational Permit.
- 9.4.** An Operational Permit expires immediately upon abandonment of any portion of the SES. If any portion of a SES which has not operated for twelve consecutive months, that portion may be deemed abandoned by the Clifton Select Board and the Operational Permit for that portion of the SES shall expire.
- 9.5.** A SES Operational Permit shall automatically terminate upon transfer of ownership or operation of the SES. The proposed new owner shall be required to obtain a new Operational Permit, which must be in place prior to operation of the SES by the new owner or owners.

## **10. Violations, Complaints and Penalties:**

- 10.1.** In this section, "violation" means a violation of this Ordinance, or a violation of a SES Site Permit issued under this Ordinance, or a violation of a SES Operational Permit.

**10.2.** Violations of this Ordinance: It shall be unlawful to construct or operate any SES or part thereof in violation of any provision of this Ordinance, a SES Site Permit, or a SES Operational Permit; any violation thereof is punishable, upon adjudication, in accordance with 30-A M.R.S. § 4452, including without limitation attorney's fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(0) and (H), as may be amended from time to time. All fines assessed under this Ordinance shall inure to the benefit of the Town of Clifton. Each day a violation exists or continues shall constitute a separate offense.

**10.3.** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer determines that any provision of this Ordinance is being violated, he/she shall immediately notify in writing the persons responsible for such violation, indicating the nature of the violation and the action necessary to correct it. Decisions on recommendations to take legal action, time granted for willful compliance and the terms of any Consent Agreements are not appealable. The Code Enforcement Officer is authorized to order immediate cessation of any development activity, pending action of the Board of Selectmen, as provided in sub section 10.3.1 below.

**10.3.1.** When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all corrective actions and proceedings, including, to require the removal of illegal buildings, structures, additions, or work being done; or any other action to ensure compliance with, or to prevent violation of, this Ordinance in the name of the Town.

**10.3.2.** Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any provisions of this Ordinance shall upon adjudication be fined in accordance with the provisions of M.R.S.A. Title 30-A Section 4452. Each day such a violation is permitted to exist after notification by the Code Enforcement Officer shall constitute a separate offense. All fines, costs, and attorney fees, including the award of any court cost shall be for use and benefit of the Town of Clifton.

**10.4.** Any resident of the Town, real property taxpayer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a SES Permittee or Owner has committed or is committing a violation. Such complaints shall be forwarded to the CEO.

**10.5.** The CEO shall preliminarily review the complaint. The CEO may request information from the SES Permittee or Owner, the complainant, and any other person to assist with this review. Following preliminary review the CEO may take one or more of the following actions:

**10.5.1.** Dismiss the complaint.

- 10.5.2. Determine that the alleged violation(s) has/have occurred and what remedial action should be taken.
- 10.5.3. Impose conditions on the SES Site Permittee or Owner to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof.
- 10.5.4. Recommend to the Select Board that the matter be referred to the Town's attorney for legal action.
- 10.5.5. Take no action, if the CEO concludes that no further action is needed to discontinue or prevent violations, and that legal action is unwarranted.
- 10.5.6. Following any of the above actions, the CEO's written decision shall be furnished to the Select Board, the Planning Board, the SES Permittee and/or Owner, as applicable, and to the complainant.
- 10.5.7. An appeal from a final decision of the Select Board or CEO shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

## **11. Maintenance, Amendments, and Miscellaneous Requirements:**

- 11.1. An SES shall be constructed, operated, and maintained, and repaired in accordance with the approved Site Permit, Operational Permit, and this Ordinance. Where a standard or requirement is not provided by either this Ordinance, the SES Site Permit or the SES Operational Permit, the SES Permittee shall comply with Good Utility Practices.
- 11.2. All components of the Solar Energy System shall conform to the latest edition of, relevant and applicable local, state, and national building codes.
- 11.3. An SES Permittee may apply to the Planning Board for changes to an SES Site Permit or Operational Permit. The application shall describe the requested change or changes. The Planning Board shall review the application and determine what provisions of this Ordinance will apply to the application. The application will then be processed in accordance with all provisions of this Ordinance and the Town of Clifton Land Use Ordinance deemed applicable by the Planning Board. The provisions of Section 7, together with all other instances where this Ordinance outlines financial obligations of the Applicant, Permittee and/or Owner shall apply to any application for changes to an SES Site Permit or Operational Permit. An application for changes will be required for any significant modification to the approved SES Permit, including,

but not limited to: any change in the number of solar panels; any change in array height, location, design, or specification; or any substantive change to any required plan.

**11.4.** The SES Permittee and/or Owner, as applicable, shall notify the Town of any extraordinary event as soon as possible and in no case more than 72 hours after the event. "Extraordinary events" shall include but not be limited to fires, leakage of hazardous materials, unauthorized entry, any injury to a Facility worker or other person that requires emergency medical treatment or other event that impacts the health and safety of the Town or its residents.

**11.5.** Approval of an SES Permit under this Ordinance does not exempt an Applicant from obtaining other applicable permits from the Town of Clifton, such as building, electrical, plumbing, and Shoreland Management Area permits, as applicable, or any applicable state or federal permit.

## **12. Severability; Conflicts with Other Ordinances, Laws, and Regulations; Appeal:**

**12.1.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or part thereof the Town hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or part thereof even if any one or more sections, subsections, sentences, clauses, phrases or parts thereof may be declared invalid or unconstitutional.

**12.2.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Town Ordinance, or Federal or State of Maine rule, regulation or statute, the more restrictive provision shall apply.

**12.3.** Except as provided in Section 9.4 or 9.5 an aggrieved party may appeal a decision of the Planning Board to Superior Court in accordance with M.R.Civ.P. 80B.

**12.4.** For Waiver and Variance procedures refer to Town of Clifton Land Use Ordinance.

## **13. Effective Date:**

**13.1.** This Ordinance shall take effect immediately upon passage.

## **14. References:**

MRSA Title 30-A, §3013: Solar Energy Devices; Ordinances



MRSA Title 30-A §4452: Enforcement of Land Use Laws and Ordinances

MRSA Title 33, Chapter 28-A: Solar Rights §1421 - §1424

National Electrical Code

NFPA 1

NFPA 70

NFPA 111

NFPA 855

Town of Clifton Land Use Ordinance

DRAFT