Solar Energy Ordinance
Town of Prospect

I. Purpose:

The purpose of this Ordinance is to regulate the installation of solar energy systems by providing standards for the site, design, construction, operation, monitoring, modifications, and removal of such facilities, and to address public safety. In keeping with the goals of the **Comprehensive Plan to preserve the generally rural, residential character of Prospect,** this Ordinance is intended to minimize the adverse impacts of solar energy systems on surrounding land uses, including visual and environmental impacts, historically significant areas, the public health, safety, and welfare, and surrounding property values.

II. Authority and Applicability

This Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A. § 3001. This Ordinance does not alter the requirement of any solar energy system to comply with all other land use ordinances in effect in the Town of Prospect. This Ordinance shall be applied in conjunction with any other applicable ordinance wherever possible; if any provision of this Ordinance conflicts with that of another ordinance, the most restrictive shall not control over more restrictive state-mandated provisions of the Shoreland Zoning Ordinance.

III. Amendment

An amendment to this Ordinance may be initiated by one (I) of the following:

1. The Planning Board, provided a majority of the Board has so voted;
2. Written request of the Municipal Officers, by a majority vote, to the Planning Board; or
3. Written petition of a number of registered voters in accordance with applicable law.

An amendment to this Ordinance may be adopted only by a majority vote of the Town meeting. The Planning Board may hold a public hearing on the proposed amendment and shall make any recommendation to the Municipal Officers at least thirty (30) days prior to the Town meeting. Notice of the hearing shall be posted in accordance with the standard public notification procedures at least ten days prior to the public hearing.

IV. Enforcement and Appeal

The Code Enforcement Officer shall have the authority to enforce this Ordinance. Violations of this Ordinance shall be subject to all enforcement procedures and penalties set forth in 30-A M.R.S.A. § 4452. There shall be no appeal from decisions, actions, or failure to act as related to the enforcement of this Ordinance.

Appeals from decisions rendered by the Planning Board in applying this ordinance

may be made in accordance with the Site Plan Review Ordinance.

V. Severability and Conflict

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate any other section of provision of this Ordinance.

VI. General Provisions

A. Prohibited Solar Energy Systems: A solar energy system with a total project area (including all fenced area, equipment area and service roads) exceeding five (5) acres (217,800 sq. ft.) is prohibited in the Town of Prospect. Area of the system shall be defined in Section 7(a).

B. Solar Energy Systems Standards: The following standards shall apply to all Commercial Solar Energy Systems (CSES) and Personal Solar Energy Systems (PSES) and shall be applied by the Planning Board or Code Enforcement Officer during development review in addition to all generally applicable standards under the Town of Prospect Ordinances.

    1. All CSES and PSES shall be designed and engineered to meet then-current industry standards, assuring that all components have been properly tested, certified, and approved for use in a solar energy system or solar array configuration, including newly designed and engineered components for the safe and efficient generation, storage, and transmission of solar energy and its consumption.
    2. All CSES and PSES shall be placed such that concentrated solar radiation or glare does not project off site or onto nearby structures or roadways.
    3. No CSES and PSES may generate noise greater than ten (10) decibels (db) above the preconstruction or existing background noise level, as measured from any property boundary.
    4. All CSES and PSES and associated system equipment shall be maintained in accordance with industry standards and in good working order at all times until their decommissioning and removal. All CSES and PSES and equipment shall be kept free from all hazards, including faulty wiring, loose fastening, or conditions unsafe or detrimental to public health, safety, or general welfare. The owner/operator shall be responsible for the cost of maintaining the CSES or PSES and any access roads in a sound and safe condition. Failure to adequately maintain any CSES, PSES, or associated equipment and access ways shall constitute a violation of this Ordinance.

C. Existing Solar Energy Systems: This Ordinance does not apply to any CSES or PSES permitted or existing prior to the Effective Date. Any physical modification to any existing CSES and PSES, whether or not existing prior to the Effective Date,

that materially alters or expands the CSES or PSES shall require review and approval under this Ordinance, but in no event shall an expansion resulting in the overall system meeting the standard for a Prohibited Solar Energy System be permitted. Routine maintenance or like-kind replacement do not require review or approval.

D. Commercial Solar Energy Systems: The following provisions shall apply to all CSES and associated solar energy system equipment, and any redesign or expansion thereof, which shall require approval by the Planning Board:
    1. General Requirements:
        a. No more than one (1) CSES shall be permitted or constructed on a single lot or combination of adjoining lots under the same common ownership or management.
        b. No CSES may contain or be used to display advertising. Signage or labels containing the manufacturer's or owner name and equipment information may be permitted on any CSES solar energy system equipment, provided it is approved by the Planning Board.
        c. The CSES owner/operator shall provide a contact person responsible for communicating with the Town for the duration of the CSES and shall provide and maintain a phone number and contact information for such person. This information shall be provided to the Town and all abutters of the CSES.
        d. The issuance of a conditional use permit under this Ordinance does not create in the CSES owner/operator, their successors or assigns, or in the property itself, the right to remain free of shadows or obstructions to solar energy caused by development or growth of any trees or vegetation on any other property.
        e. Any transfer or change of ownership or operation of a permitted CSES shall be reported to the Town and Code Enforcement Officer within l0 days. A reported transfer of change of ownership shall include evidence of the new owner's interest in the property and financial capacity to operate the pennitted CSES. The Code Enforcement Officer shall reserve, in his or her sole discretion, the right to refer the change in ownership to the Planning Board for approval if there appears to be a material change in the project's ability to meet the technical and financial capacity standards of applicable ordinance to pertinent conditional use standards regarding change of ownership.
    2. Setbacks: The minimum setback shall be the greater of the principal structure setback within the Minimum Lot Size Ordinance or the minimum buffer required under this Ordinance.

3. Wooded Buffer: All proposed CSES shall include a natural, undisturbed wooded buffer extending two hundred (200) feet horizontally from all exterior property lines. The wooded buffer shall include a minimum of twenty-five (25) trees exceeding two (2) inches in diameter at four (4) feet above the ground along any one hundred (100) foot buffer length, as measured at the property line. Additional trees shall be planted where necessary to achieve this standard and shall be of the same species as existing trees in the immediate area. Newly planted trees within the buffer shall be a minimum of one and one-half (1.5) inches in diameter at four (4) feet above the ground and shall be placed so as to screen the CSES from view from adjacent properties or public or private ways. A wooded buffer is not required at vehicular entrances, utility rights of way, and similar required openings.

   The wooded buffer shall be maintained or planted to substantially obscure the view of the CSES from adjacent properties, roads, and water bodies in all seasons year round.

4. Design and Construction:
   a. The modification of all CSES shall comply with all applicable permit requirements, codes, and regulations, this Ordinance, the Comprehensive Plan, and applicable Town of Prospect Ordinances.
   b. The layout, design, installations, and ongoing maintenance of an CSES shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), the Institute of Electrical and Electronics Engineers (IEEE) or other similar certifying organizations. The layout, design, installation, and ongoing maintenance shall also comply with all applicable federal, state, and local codes, including applicable building codes and fire and life safety requirements.
   c. A CSES may not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority.
   d. Proposed site re-grading shall be kept to the minimum amount necessary. The Planning Board may require any topsoil removed to be stored and stabilized on-site for future use, including for the decommissioning of the CSES.
   e. Ground-mounted CSES shall not exceed fifteen (15) feet in

height, measured from the grade to the highest point of the array.

f. Ground-mounted CSES shall not be placed within any legal easement or right-of-way or be located or placed within any storm water drainage system in any manner that alters or impedes storm water runoff from collecting in a storm water drainage system.
g. Any excavation exceeding that required for installation of the CSES shall be considered mineral extraction and subject to any applicable standards for that use.

5. Maintenance:
    a. The CSES owner/operator shall maintain all CSES and related solar energy system equipment in good repair and operating condition, consistent with industry standards for the duration of the CSES permit.
    b. Vegetation: Native, pollinator-friendly vegetation shall be maintained within the CSES. Use of pesticides and herbicides is prohibited except where authorized by the Code Enforcement Officer if reasonably necessary to prevent a safety hazard.

6. Fencing and Safety
    a. All solar panels or solar arrays within a CSES and related equipment, including solar panels, inverters, storage facilities, buildings and structures, shall be completely enclosed by a fence, with eight-foot high locking gates of the same material. All perimeter fencing shall be elevated at least six (6) inches from the ground to permit passage by small terrestrial animals. The fencing material and design are subject to review and approval by the Planning Board as part of the conditional use permit application process. Additional fencing may be required by the Planning Board where deemed necessary to prevent unlawful trespass or to protect the safety of the public. All access points through perimeter fencing shall be locked at all times to prevent unauthorized access or entry.
    b. Signage containing conspicuous warnings regarding electrical voltage and transmission shall conform to state and federal standards and be updated as those standards are revised, and shall be placed at intervals of one hundred fifty (150) feet along all perimeter fencing and on all ground-mounted electrical devices, equipment, and structures, including transformers, inverters, and substations.
    c. All electrical control devices associated with a CSES shall be locked at all times to prevent unauthorized access or entry

d. No fuel, batteries, or other hazardous material shall be buried on site.
e. Any fuel, batteries, or other hazardous material shall be stored in accordance with all Federal, State, and local safety standards, rules, regulations, and ordinances.

7. Size and Lot Coverage:
    a. The maximum land area permitted for a CSES shall be five (5) acres. This maximum shall be calculated based on the area encompassed within the perimeter fencing of the CSES and any areas of the overhead transmission lines.
    b. No CSES requiring clearance or cutting of greater than two and one-half (2.5) acres of timber may be permitted. These two and one-half (2.5) acres include any clearance or cutting in the five (5) years preceding the date of application. Additional clearance or cutting is permitted only for necessary removal/salvage operations connected with disaster, blowdowns, or disease infestation. Such additional clearance or cutting may not be used for placement of solar panels, energy storage devices, transmission lines or setbacks.
    c. All CSES shall comply with the maximum lot coverage requirement of the Building Ordinance. Lot coverage for CSES shall be defined as the percentage of the lot covered by all buildings, driveways, parking areas, and other areas where vegetation has been removed, and all of the area enclosed within the CSES perimeter fencing and wood buffer.
    d. No more than one CSES may be permitted or constructed on a single lot. No CSES may be interconnected with a CSES on an adjacent lot or have its perimeter fencing extend beyond the property line of the lot on which the CSES is located.
    e. The area beneath ground-mounted CSES will not be considered impervious for purposes of storm water management unless it is enclosed or covered by impervious materials.
    f. The surface area of solar panels installed as part of ground-mounted CSES, regardless of their mounted angle, shall be considered impervious for stormwater management purposes.

8. Transmission Lines: All on-site, newly-installed, utility, collector, or transmission lines connected to a CSES, and all upgraded transmission lines, shall be placed underground except to the extent prohibited by interconnection agreements or applicable regulations. All newly-installed

utility, collector, or transmission lines, including all upgraded transmission lines, constructed for purposes of delivering energy produced by a CSES to a grid connection point or substation shall be placed underground. All transmission lines placed underground shall be installed and constructed to applicable standards adopted by the Maine Department of Transportation or other relevant agency or authority.

9. Parking and Emergency Access: A CSES must provide adequate access, parking and circulation for service and emergency vehicles, as determined by the Planning Board in consultation with the Fire Chief. At least one (1), twenty (20) foot wide, all-weather access way must be provided from a public way to the CSES. The access way must comply with the performance standards for roads set forth in the Site Plan Review Ordinance and include appropriate turning areas and turnaround to facilitate access by emergency vehicles.

10. Application Fee: All CSES permit applications shall be accompanied by a processing fee and a review escrow fee (refer to the Town of Prospect's schedule fees). The review escrow fee is intended to cover the Town's reasonable costs related to the review and processing of the application, including the cost of outside engineers, attorneys, planners, environmental specialists, or other consultants that the Town determines necessary to review applications. The escrow fee shall be deposited with the Town and all costs incurred in reviewing and processing the application shall be billed against that deposit. The applicant shall maintain a minimum balance of ten thousand dollars ($10,000) with the Town and, upon demand from the Town, shall deposit additional money to maintain the balance to ten thousand dollars ($10,000), or such other amount deemed reasonable to cover anticipated expenses, within five (5) business days. Any unspent balance shall be returned to the applicant within sixty (60) days after either the final inspection of the CSES or denial of the application. If an applicant fails to deposit additional funds with the Town within the required time or the balance is drawn to zero, the Planning Board may suspend review of the application, or if the permit has been granted, the Code Enforcement Officer may revoke the permit.

11. Conditional Use Permit Application Requirements: In addition to any documentation and infonnation required under subsection 12 of this section, and other applicable ordinances, the following information shall be submitted with a CSES conditional use permit application. The

Planning Board may waive a submission requirement upon written request of the applicant only upon a finding that such information is not necessary for review of the CSES's compliance with this and other Town ordinances.

a. Evidence that the CSES owner/operator owns or has a satisfactory interest for all the land associated with the CSES and that such interest will remain in effect for the duration of the operation of the CSES;
b. Evidence of financial and technical capacity to construct and operate the proposed CSES;
c. Substantive stormwater management and erosion control plans for the proposed CSES site;
d. A study identifying any endangered or protected flora or fauna on the proposed CSES site;
e. Evidence that the applicant has presented the proposed CSES project to the following agencies, where such review is required by federal, state or local statute, ordinance or regulation, and written responses or permits from those agencies, including but not limited to the Maine Department of Agriculture; the Maine Department of Environmental Protection; the Maine Department of Inland Fisheries and Wildlife; the Maine Department of Transportation; the Maine Historic Preservation Commission; and the Maine Natural Areas Program; and any necessary federal agencies;
f. Scaled plans of the CSES showing changes to the landscape of the site, including grading; vegetation, clearing and planting; all screening, lighting, structures and arrays; property line metes and bounds; all water-related features onsite and in the vicinity, including water courses and bodies, wetlands, flood hazards areas and vernal pools; the location of all perimeter fencing and access roads; all existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures and foundations; all above or below-ground utilities or transmission lines; and the locations of any deer wintering areas and other wildlife habitats on site;
g. A Phase I Environmental Site Assessment report and responsive narrative from the CSES owner/operator describing any next steps; which may be waived if the applicant demonstrates that there has been no prior use or development of the property;
h. A table of required and provided zoning dimensional infonnation (e.g., setbacks, lot coverage, height, etc.);
i. Documentation describing all solar energy system equipment to be

used in constructing the CSES, including manufacturers' specifications and cut sheets;

j. An explanation of any transmission or distribution lines, access, or upgrades to be built as a result of the CSES, including route starting and ending points; potential impacts to trees or vegetation, and rights of way;
k. An explanation of any new or proposed upgrades to electrical substations related to the CSES, including location, screening, setbacks, and noise impacts;
l. An electrical diagram detailing the CSES solar array installation, associated components, and electrical interconnections;
m. A statement of the amount of energy to be produced by the CSES;
n. A written confirmation from the public utility company to which the CSES will be connected stating that the utility has been informed of the CSES owner/operator's intent to install a grid connected system and that it has approved, or conditionally approved, such connection, or a signed interconnection agreement;
o. A list of possible or intended dual uses of the property.

12. Decommissioning and Performance Bond
    a. All CSES conditional use permit applicants shall submit a decommissioning plan that meets the requirements set forth in 35-A M.R.S.A. §§ 3491 through 3496, as may be amended, and pertinent regulations promulgated by the Maine Department of Environmental Protection.
    b. The CSES owner/operator shall submit to the Town a financial guarantee in the form of a performance bond, surety bond, irrevocable letter of credit or other form of financial assurance acceptable to the Planning Board, to provide guarantee to the Town that the facility will be properly removed and remediated upon abandonment or termination of production. The amount of financial guarantee shall be updated annually.
    c. In the event that the CSES is not erected, constructed, or installed in accordance with this Ordinance; or is only partially erected and requires clean up; or if any part of Section 12 of this Ordinance is not met, the performance bond, surety bond, irrevocable letter of credit, or other form of financial guarantee shall be utilized to remove the CSES or any portion thereof, and remediate the site.
    d. If a bond or letter of credit is provided as a financial guarantee, the

Town shall be listed as a co-beneficiary, and the Municipal Officers shall be listed as the designated point of contact on behalf of the Town.

e. Failure of the CSES owner/operator to maintain any submitted performance guarantee, through nonpayment of premiums or otherwise, shall be evidence of a breach of the approval which, if not remedied within thirty (30) days shall require the project owner to notify the Maine Public Utilities Commission (MPUC), and any fiscally connected party, that they are in breach of their Town approval. Production from the CSES shall be suspended beginning on the 30th day following expiration or termination of a performance bond or letter of credit and until the Town certifies that the guarantee has been properly reestablished. Failure to suspend production as required shall be subject to a minimum penalty of $500 per day. Any proceeds from solar production improperly generated during a required period of suspension shall be forfeited to the Town as an additional penalty for noncompliance.
f. An updated financial guarantee shall be submitted with any application seeking change in ownership of a CSES.
g. Any CSES that has failed to operate for more than one (1) year shall be decommissioned and removed by the owner/operator in accordance with the approved decommissioning plan, or for any CSES constructed before the effective date of this Ordinance, in accordance with standard requirements as enforced by the Maine Department of Environmental Protection. Decommissioning shall include:
    i. Physical removal of all components of the system above and below ground, including structures, equipment, security barriers, and transmission lines;
    ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. Waste material and rubbish, including solar panels and associated solar energy system equipment, shall not be stored or allowed to accumulate in the immediate vicinity and shall not be buried in the Town of Prospect;
    iii. Stabilization and revegetation of the site as necessary to minimize erosion; native seed mixture shall be used to the extent possible;
    iv. Failure of the owner-operator to properly and fully

decommission the CSES within one (l) year of the last date of production shall entitle the Town to access any provided financial guarantee and to enter the property and conduct all decommissioning activities necessary. The deadline for decommissioning may be extended for no more than a one (I) year period, if the owner/operator provides information to the Code Enforcement Officer certifying that the cease in production is temporary and will be resumed within that year.

E. Personal Solar Energy Systems: A PSES shall be permitted as a use by right within the Town except the Resource Protection District. If the PSES exceeds 200 square feet, an intent to build permit is required. A PSES may not be erected, constructed, expanded, altered or installed except in accordance with the requirement of this ordinance. The following provisions shall apply to all PSES:

1. General Provisions
    a. More than one (1) PSES may be permitted on any one (1) lot; however, a PSES serving one building or use may be spread among more than one location on a single lot.
    b. All PSES shall be placed and positioned such that concentrated solar radiation or glare does not project anywhere off the site or lot on which the PSES is located.
    c. Roof-Mounted and Wall-Mounted PSES:
        i. A roof-mounted or wall-mounted PSES may be located on a principal or accessory structure.
        ii. A roof-mounted or wall-mounted PSES may not extend beyond any portion of the roof or wall edges and shall provide a minimum three (3) foot buffer from the ridge and one edge of the roof or parapet to allow firefighter access.
        iii. The owner is responsible for proving structural integrity of the roof support for panels and mount; the Town is not responsible for any damage to the structure during the life of the solar array.
    d. Ground-mounted PSES:
        i. All ground-mounted PSES shall comply with the minimum setbacks for principal and accessory structures under the Minimum Lot Size Ordinance.
        ii. Ground-mounted PSES may not be placed within any legal easement or right-of-way or be placed

within any storm water drainage system or any other location or manner that would alter or impede storm water runoff from collecting in a storm water drainage system.

VII. Definitions

As used within this Ordinance, unless otherwise indicated herein, the following terms shall have the following meanings. Terms not defined within this Ordinance shall have the same meaning as in the Town of Prospect Land Use Ordinance.

Kilowatt (kW): A unit for measuring power that is equivalent to one thousand (1,000) watts.

Megawatt (MW): A unit for measuring power that is equivalent to one million (1,000,000) watts, or one thousand (1,000) kilowatts (kW).

Commercial Solar Energy System (CSES): A solar energy system that is designed primarily to sell power off the premises where the system is located.

Personal solar energy system (PSES): A solar energy system intended primarily to generate and supply electrical or thermal power to a dwelling, building or use located on the same lot or on an adjacent lot held or controlled by the same owner. The sale and distribution of excess energy to a public utility for distribution shall be an incidental use of a PSES and may not be its primary purpose. A PSES is accessory to the principal use and structure on the lot.

Solar array: A solar-energy system consisting of a combination or interconnection between multiple solar panels.

Solar energy: Radiant energy (direct, diffuse and/or reflective) received, captured or collected from the sun.

Solar energy system (SES): A system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power that consists of one or more freestanding ground, wall, or roof-mounted solar panels and any associated reflectors, concentrators, heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant structures.

Solar energy system equipment: The parts and components of a solar energy system, including components parts, such as solar photovoltaic cells, modules, panels, or solar arrays; solar hot air or water collector device panels; lines; pumps; batteries; mounting brackets; framing; foundations; or other similar

components; and other structures used for or intended to be used for the collection, transmission or distribution of solar energy.

Solar panel: That portion or part of a solar energy system containing one (I) or more receptive or solar photovoltaic cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating or for the generation of electricity.

Brandy Bridges

Peter Shoults

Attested By: Lyndsey McGowan