TOWN OF North Yarmouth
SOLAR ENERGY SYSTEMS ORDINANCE FOR RESIDENTIAL AND COMMERCIAL, GROUND OR POLE MOUNTED SOLAR ENERGY SYSTEMS (*GPM-SES*)

Section 1. Purpose

The purpose of this Ordinance is to establish a municipal review procedure and siting standards for Residential and Commercial, Ground or Pole Mounted Solar Energy Systems. These standards are intended to:

a. Establish clear guidelines and standards to regulate GPM-Solar Energy Systems.

b. Protect public health, safety, and welfare fairly and responsibly.

c. Support the development of GPM-Solar Energy Systems in a manner that minimizes any potential adverse effects on the scenic, cultural, and natural resource character of the Town.

d. Provide for the removal of solar modules and associated utility structures that are no longer being used for energy generation and transmission purposes.

Section 2. Authority, Administration, and Enforcement

a. This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRS, §3001 *(Home Rule)*, and the provisions of Title 30-A §4312 et. seq. *(Comprehensive Planning and Land Use Regulation, or "Growth Management" Act)*.

b. This Ordinance will be administered through the provisions of the Land Use Ordinance, specifically Articles II III (Administration and Enforcement) which are hereby incorporated by reference. Specific application requirements, standards of review, and other requirements pertinent to GPM-Solar Energy Systems within this Ordinance shall be added to the Application Requirements and Standards of Approval within the Land Use Ordinance, which are also hereby incorporated by reference. In case of a conflict, the stricter provision shall apply.

Section 3. Applicability and Scale

a. Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, the requirements of this Ordinance shall apply to all Residential and Commercial, Ground or Pole Mounted solar energy systems modified or installed after the date of its enactment.

b. Size and Scale of all GPM-Solar Energy Systems is defined as follows:

1) A Small-Scale GPM-SES is a single, active system of panels with an overall airspace of 3,000 square feet or less.

2) A Medium-Scale GPM-SES is a single, active system of panels with an overall range of airspace from 3,001 square feet to 30,000 square feet.

3) A Large-Scale GPM-SES is a single, active system of panels with an overall airspace of over 30,001 square feet.

Section 4. Permitting Requirements

1) Electrical and Building Permits from the Code Enforcement Office are required prior to the installation, construction, or expansion of all GPM-Solar Energy Systems, regardless of size.

2) A Conditional Use/SPR Permit from the Planning Board is required prior to the installation, construction, or expansion of any Medium-Scale and Large-Scale GPM-Solar Energy Systems. All GPM-Solar Energy Systems must meet the requirements of this Ordinance, the North Yarmouth Land Use Ordinance, as well as and and all state and federal electrical codes and permitting requirements.

3) Transfer of Permits. Valid permits from the Planning Board or the CEO are transferable to a new owner or lessee of the property for which the permit was given provided that the new owner or lessee signs a statement that they will adhere to the conditions and specifications of the issued permit. The new owners or lessees must conform to all construction, site development, uses, and permit conditions as specified in the permit application and the permit from the Planning Board or CEO. (See Land Use Ordinance Article III Section 3.5-Transfer of Permits). The Planning Board may require as a condition of approval that any new owner or lessee meet with the CEO or Planning Board to review and up-date as necessary any permit requirements, including, but not limited to, proof of financial and technical capacity and decommissioning.

Section 5. Location

Subject to the requirements of this Ordinance and the Land Use Ordinance, GPM-Solar Energy Systems shall be located and permitted in accordance with Land Use Ordinance, Article VII, Table 7.1 (Land Uses by District).

Section 6. Specific Permit Application Requirements

In addition to the requirements listed in Article III of the Land Use Ordinance, an application for a SES Conditional Use Permit must also include the following:

a. A description of the owner of the system, the operator if different, and detail of qualifications and track record to run the GPM-SES.

b. If the operator will be leasing the land, a copy of the agreement outlining the relationship, inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party regarding the GPM-SES and the details of the agreement.

c. For Grid-tied systems, a copy of the Interconnection Agreement and One-line details with the Interconnecting Utility, clearly identifying the requirements and responsibilities of all parties involved in the operation and maintenance of the GPM-SES.

d. For non Grid-tied systems and/or those with Battery Bank(s), the applicant shall provide a One-line and a signed contract detailing ownership and clearly identifying the

requirements and responsibilities of all parties involved in the operation and maintenance of the GPM-SES.

e. A description of all major system components, including the make(s) and model(s) of the panel(s) and inverter(s), and the anticipated power and generation of the GPM-SES.

f. A construction plan and timeline, identifying known contractors, and the date the system is expected to go live.

g. An operations and maintenance plan, including site control and the projected operating life of the system. Such a plan shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. Additionally, such plans shall include efforts to promote beneficial flora and fauna (e.g. honeybees, butterflies, etc.) as well as a commitment to not using pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides).

h. An emergency management plan for all anticipated hazards.

i. Proof of financial and technical capability to construct and operate the proposed GPM-SES; and

j. A decommissioning plan for any Medium-Scale or Large-Scale Ground-Mounted SES, including:

1) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if less than 10% electricity is generated for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.

2) A description of the work required to physically remove all solar modules, associated foundations, equipment pads, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. Below ground equipment such as foundations and power poles will be removed to a depth of at least two feet or to bedrock (whichever is less). All earth disturbed within the project footprint during and after decommissioning must be permanently stabilized, per DEP requirements. [Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all components of the GPM-SES. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]

3) An estimate of the total cost of decommissioning, less salvage value of the equipment, and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs should include, but is not limited to, the removal of all project equipment including, solar modules, racking, foundations, equipment pads, overhead poles and conductors, access roads, and grading and re−seeding.

4) Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the GPM-SES the Applicant will have the necessary financial assurance in place for 125% of the total cost of decommissioning. The financial assurance shall include consideration of any increased removal costs due to inflation or other factors. A decommissioning cost analysis shall be performed at year 15 (15 years after the project has commenced operation) and then every 5 years to account for increased costs that would impact the decommissioning activities. The form of surety shall be adjusted according to each cost analysis update such that the amount of the surety is 125% of the total cost of decommissioning. As an added condition of approval, the Planning Board may require a review of the financial assurance on a periodic basis to determine if an adjustment is warranted.

5) The total financial assurance as required by the Planning Board shall be in place prior to the start of construction. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the GPM-SES is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the decommissioning plan and approved by the Planning Board.

6) Waiver for a Small-Scale GPM-SES that is an Accessory Structure. The Planning Board may waive, at its discretion, any or all of the requirements of Section 7, for a Small-Scale GPM-SES that is an accessory structure designed to provide energy either directly or indirectly for the principle use on the same parcel of land, such as, but not limited to, an accessory structure to a business, public building, or multifamily building.

Section 7. Standards for Approval

In addition to the requirements in Articles III and VII of the Land Use Ordinance, the following standards must also be met for all Medium-Scale and Large-Scale Ground-Mounted and Medium-Scale, as applicable:

a. Legal Responsibilities: The Applicant must provide proof of authorization to construct, use, and maintain the property and any access drive for the life of the GPM-SES and including the decommissioning of the GPM-SES. The roles and responsibilities of the system owner, operator, landowner, and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected. The owner or operator of the GPM-SES, at their expense, shall be responsible for decommissioning and site stabilization when the solar energy system has reached the end of its useful life, or is otherwise determined to be abandoned, unless an extension is granted by the Planning Board.

b. Safety: A GPM-SES and its associated equipment shall not present any unreasonable safety risks, including, but not limited to, the following: 1) weight load; 2) wind resistance; 3) ingress or egress in the event of fire or other emergency; or 4) proximity of a ground-mounted system relative to buildings.

c. Lot Size and Lot Coverage: The GPM-SES shall meet the minimum lot size and maximum lot coverage requirements of the applicable zoning district, excepting that those areas of the GPM-SES that are vegetated shall not be included in the calculation of lot coverage.

d. Setbacks and Height Restrictions: Structures within a GPM-SES shall be setback a minimum of 50 feet from all lot lines. Any solar photovoltaic cells or arrays shall be subject to the maximum height restrictions of the applicable zoning district, i.e: (1.5) stories or 15 feet above the ground surface.

e. Prohibited Locations: Unless otherwise permitted, an GPM-SES or any of its components shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

f. Utility Notification: No grid-tied, GPM-SES shall be installed until evidence has been given to the permitting authority (Code Enforcement Officer or Planning Board) that the applicant has an approved Interconnection Agreement with the utility to accept the power. Off−grid systems are exempt from this requirement.

g. Fencing and Visual Impacts: The Planning Board may require that a GPM-SES be enclosed by fencing to prevent unauthorized access. Reasonable efforts, as determined by the Planning Board, shall be made to allow for small wildlife passage and movement and the preservation of native vegetation. Efforts must also be made and/or determined by the Planning Board, to minimize visual impacts by screening abutting roads and properties, that may include height and setback requirements, or by adding plantings, berms, and other natural topographical features.

h. Signage: Signage shall be required to identify the owner of the GPM-SES and provide a 24−hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the GPM-SES. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the GPM-SES, informing individuals of potential voltage hazards.

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

j. Emergency Services: The GPM-SES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town of North Yarmouth Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A “3200 Series KNOX−BOX” shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the GPM-SES shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

k. Maintenance Conditions: The owner or operator shall maintain the GPM-SES in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The GPM-SES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Town of North Yarmouth Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the GPM-SES and any access road(s) year round, to standards that allow constantly unimpeded accessibility.

l. Modifications: Any material modifications to a GPM-SES made after issuance of the required Town permit(s) shall require approval by the Code Enforcement Officer and/or the Planning Board.

m. Satisfaction with All Aspects of Capacity and Plans Submitted: The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the GPM-SES.

n. Removal: When any portion of a ground mounted GPM-SES is removed, any earth disturbance must be graded and reseeded.

o. Deed Registration: Large Scaled GPM-SES system shall be incorporated into the description of the real property in the lot/property deed and registered with the Cumberland County Registry of Deeds as a condition of Planning Board approval.

Section 8: Roof Mounted Solar Energy Systems (RM-SES)

1. The owner or solar installer is required to apply for an Electrical Permit thru the Code Enforcement Office, and include evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the RM-SES.

2. RM-SES on any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

3. For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.

Section 9: Decommissioning and Removal (at a glance)

1. Any Ground Mounted SES that has reached the end of its useful life and ceases to generate a minimum of 10% power or has been abandoned, shall be removed pursuant to a plan approved by the Planning Board during the application process. The landowner, or GPM-SES owner or operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

2. Decommissioning shall consist of:

a. physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;

b. disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and

c. stabilize or re-vegetation of the site as necessary to comply with DEP requirements. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

3. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Ground Mounted SES shall be considered abandoned when it fails to generate 10% or less permitted capacity of electricity for a continuous period of twelve (12) months without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.

4. If the owner or operator of a Ground Mounted SES fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of North Yarmouth retains the right to use the performance guarantee, access the funds previously granted, and any other legal or available means necessary to execute the decommissioning plan.

Section 10: Enforcement Violations and Penalties

This Ordinance shall be enforced by the municipal officers or their designee. Violation of this Ordinance shall be subject to the enforcement and penalty provisions of 30-A, M.R.S. § 4452, Enforcement of Land Use Laws and Ordinances.

Section 11. Conflict and Severability

a. If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Town of North Yarmouth ordinance, the provisions of this Ordinance shall apply.

b. The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

Section 12. Effective Date.

This Ordinance becomes effective upon the date of its enactment by the Town.

Do we want to include any of this re: farm and forest?

Some General Considerations:

It is strongly recommended to avoid locations that may result in significant loss of land and natural resources, Wildlife Management Districts, or areas that have been deemed worthy of Conservation. Preference is for rooftop siting(s) and locations in industrial or commercial districts. Alternatively, vacant or previously disturbed land is also preferred. Placement of facilities with road visibility will not be permitted without specific approval of the Planning Board.

Wherever possible, avoid land identified by the Natural Resources Conservation Service as "Prime Farmland" or "Farmland of Statewide Importance," or otherwise cause productive farmland to be taken out of production, including land leased for agricultural uses. Documentation from NRCS may be requested to identify any potential areas.

Preferentially, use previously-developed, disturbed, degraded, or marginally productive portions of the farm property. (ie. sand and gravel pits and areas with low utility for agricultural production.)

Dual-use projects are also preferred, where agricultural production from farming and electricity production from solar installations occur together on the same piece of land. Projects should also benefit the farm business directly by providing electricity to meet the energy needs (in whole or in part) of the farm.