

Solar Ordinance

TOWN OF North Yarmouth SOLAR ENERGY SYSTEMS ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish a municipal review procedure and siting standards for Solar Energy Facilities. These standards are intended to:

- a. Establish clear guidelines and standards to regulate solar energy systems.
- b. Permit the Town to protect public health, safety, and welfare fairly and responsibly.
- c. Support the development of 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 panels and associated utility structures that are no longer being used for energy generation and transmission purposes; and
- e. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural and scenic resources.

Section 2. Authority

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*).

Section 3. Applicability

- 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 ground-mounted solar energy systems modified or installed after the date of its enactment, unless exempted.
- b. All Solar Energy Systems shall be designed, erected, installed, and operated in accordance with all applicable codes, regulations, and standards.

Section 4. Administration and Enforcement

- a. 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 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.
- b. **Permit Requirements.**
 - 1) A permit from the Code Enforcement Officer is required prior to the installation, construction, or expansion of a Small-Scale SES, Medium-Scale or Large-Scale Ground-Mounted SES.
 - 2) A Conditional Use/SPR Permit from the Planning Board is required prior to the installation, construction, or expansion of a Large-Scale Solar Energy System. Solar Energy Systems must meet the requirements of this Ordinance and the Land Use Ordinance. All solar energy systems must also meet all federal and state 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 capacity and decommissioning.

Section 5. Location and Size

Subject to the requirements of this Ordinance and the Land Use Ordinance, 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 SES.
- b. If the operator 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 operator, landowner, and any other responsible party regarding the SES and the details of the agreement.
- c. A description of the energy to be produced and to whom it will be sold.
- d. A copy of the agreement and schematic details of the connection arrangement with the transmission system, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.
- e. A description of the panels to be installed, including make and model, and associated major system components.
- f. A construction plan and timeline, identifying known contractors, site control, and anticipated on-line date.
- g. An operations and maintenance plan, including site control and the projected operating life of the system.
- h. An emergency management plan for all anticipated hazards.
- i. Proof of financial and technical capacity to construct and operate the proposed 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 no 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 panels, associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded unless the landowner of the affected land requests otherwise in writing. [Note: At the time of decommissioning, the Applicant may

provide evidence of plans for continued beneficial use of any or all components of the 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 may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.
- 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 SES the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The financial assurance shall include consideration of any increased removal costs due to inflation or other factors. As a 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 SES is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.
- 6) Waiver for a Medium-Scale SES that is an Accessory Structure. The Planning Board may waive, at its discretion, any or all of the requirements of Section 7, j for a Medium-Scale 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 and Large-Scale Roof-Mounted SES, 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 SES and including the decommissioning of the 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 SES, at their expense, shall be responsible for decommissioning and site restoration 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 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 SES shall meet the minimum lot size and maximum lot coverage requirements of the applicable zoning district, excepting that those areas of the SES that are vegetated shall not be included in the calculation of lot coverage.
- d. **Setbacks:** Structures within a SES shall be setback a minimum of 50 feet from the side and rear

- property lines and meet the front setback requirements for structures within the zoning district.
- e. Prohibited Locations: A 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-inter-tied photovoltaic system shall be installed until evidence has been given to the permitting authority (Code Enforcement Officer or Planning Board) that the applicant has an 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 SES be enclosed by fencing to prevent unauthorized access. 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 height and setback requirements.
 - h. Signage: Signage shall be required to identify the owner of the 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 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 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 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 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 SES owner or operator shall maintain the SES in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The 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 SES and any access road(s).
 - l. Modifications: Any material modifications to a 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 SES.
 - n. Removal: When any portion of a ground mounted SES is removed, any earth disturbance must be graded and reseeded.

Section 8. 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 9. Effective Date.

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